

ployee of the United States for any purpose other than for purposes of—

- (A) chapter 81 of title 5; or
- (B) chapter 171 of this title.

(4) In the administration of this subsection, the Counselor shall ensure that the acceptance of personal services shall not result in the reduction of pay or displacement of any employee of the Supreme Court.

(Added Pub. L. 92-238, §1, Mar. 1, 1972, 86 Stat. 46; amended Pub. L. 105-233, §1, Aug. 13, 1998, 112 Stat. 1535; Pub. L. 110-402, §1(b)(3)(A), Oct. 13, 2008, 122 Stat. 4254.)

#### AMENDMENTS

2008—Pub. L. 110-402, §1(b)(3)(A)(i), substituted “Counselor” for “Administrative Assistant” in section catchline.

Subsec. (a). Pub. L. 110-402, §1(b)(3)(A)(ii), substituted “a Counselor” for “an Administrative Assistant” in first sentence and “Counselor” for “Administrative Assistant” in second and third sentences.

Subsecs. (b), (c). Pub. L. 110-402, §1(b)(3)(A)(iii), substituted “Counselor” for “Administrative Assistant” wherever appearing.

1998—Subsec. (c). Pub. L. 105-233 added subsec. (c).

### CHAPTER 47—COURTS OF APPEALS

Sec.	
711.	Clerks and employees.
712.	Law clerks and secretaries.
713.	Librarians.
714.	Criers and messengers.
715.	Staff attorneys and technical assistants.

#### AMENDMENTS

1982—Pub. L. 97-164, title I, §120(b)(2), (c)(2), Apr. 2, 1982, 96 Stat. 33, substituted “Librarians” for “Criers, bailiffs and messengers” in item 713 and added items 714 and 715.

### § 711. Clerks and employees

(a) Each court of appeals may appoint a clerk who shall be subject to removal by the court.

(b) The clerk, with the approval of the court, may appoint necessary deputies, clerical assistants and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants and employees shall be subject to removal by the clerk with the approval of the court.

(c) The clerk shall pay into the Treasury all fees, costs and other moneys collected by him and make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

(June 25, 1948, ch. 646, 62 Stat. 920.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§221 and 222, 544 and 546 and District of Columbia Code, 1940 ed., §11-204 (Mar. 3, 1891, ch. 517, §2, 26 Stat. 826; Feb. 9, 1893, ch. 74, §4, 27 Stat. 435; July 30, 1894, ch. 172, §1, 28 Stat. 160; June 6, 1900, ch. 791, §1, 31 Stat. 639; Mar. 3, 1901, ch. 854, §224, 31 Stat. 1224; June 30, 1902, ch. 1329, 32 Stat. 528; Mar. 3, 1911, ch. 231, §§124, 125, 36 Stat. 1132; Aug. 23, 1912, ch. 350, 37 Stat. 412; Feb. 22, 1921, ch. 70, §7, 41 Stat. 1144; June 1, 1922, ch. 204, title II, 42 Stat. 616; Mar. 4, 1923, ch. 265, 42 Stat. 1488; May 21, 1928, ch. 659, 45 Stat. 645).

This section consolidates section 546 of title 28, U.S.C., 1940 ed., with parts of sections 221, 222, and 544

of such title and a part of section 11-204 of the District of Columbia Code, 1940 ed. Other provisions of such sections are incorporated in sections 604, 713, 954, 956, 961, and 962 of this title. Some provisions of section 11-204 of the District of Columbia Code, 1940 ed., were retained in that code. (See reviser’s note under section 604 of this title.)

Discrepancies between such section 11-204 of District of Columbia Code, 1940 ed., and the more general provisions of title 28 were eliminated by adopting the more general provisions.

Words “Director of the Administrative Office of the United States Courts” were substituted for “Attorney General,” in view of the act of Aug. 7, 1939, ch. 501, §6, 53 Stat. 1226, 28 U.S.C., 1940 ed., following §446.

A provision that the returns should be filed annually was changed to place the times of accounting within the discretion of the Director of the Administrative Office of the United States Courts, who has supervision over such accounts. (See section 604 of this title.)

This section is in harmony with section 671 of this title as to accounting similarly by the Clerk of the Supreme Court.

“Court of appeals” was substituted for “circuit court of appeals” to conform to section 43 of this title.

The provision that each clerk shall be removable by the court is new. Section 222 of title 28, U.S.C., 1940 ed., provided that deputies might be removed at the pleasure of the clerk, subject to the court’s approval, and there was no term of office specified for the clerk and no provision for his removal.

The words “and other necessary employees” were added in subsection (b) to supply an omission of existing law and to give statutory authority for the appointment of necessary employees for which compensation is annually appropriated.

Changes were made in phraseology.

### § 712. Law clerks and secretaries

Circuit judges may appoint necessary law clerks and secretaries. A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.

(June 25, 1948, ch. 646, 62 Stat. 920; Pub. L. 100-702, title X, §1003(a)(3), Nov. 19, 1988, 102 Stat. 4665.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §222a (Mar. 3, 1911, ch. 231, §118a, as added June 17, 1930, ch. 509, 46 Stat. 774).

Provision of section 222a of title 28, U.S.C., 1940 ed., relating to compensation of law clerks is incorporated in section 604 of this title. (See reviser’s note under such section.)

Words “with the approval of the Attorney General,” were omitted to confer on circuit judges the same authority given Supreme Court justices under section 675 of this title.

The provision for appointment of secretaries is new. Existing law fixes compensation of secretaries but makes no provision for their appointment. (See section 604 of this title and reviser’s note thereunder.)

Changes were made in phraseology.

#### AMENDMENTS

1988—Pub. L. 100-702 inserted at end “A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.”

### § 713. Librarians

(a) Each court of appeals may appoint a librarian who shall be subject to removal by the court.

(b) The librarian, with the approval of the court, may appoint necessary library assistants in such numbers as the Director of the Administrative Office of the United States Courts may approve. The librarian may remove such library assistants with the approval of the court.

(June 25, 1948, ch. 646, 62 Stat. 920; May 24, 1949, ch. 139, § 75, 63 Stat. 100; Pub. L. 97-164, title I, § 120(b)(1), Apr. 2, 1982, 96 Stat. 33.)

HISTORICAL AND REVISION NOTES  
1948 ACT

Based on title 28, U.S.C., 1940 ed., § 547, and section 11-204 of District of Columbia Code, 1940 ed., (Mar. 3, 1891, ch. 517, § 9, 26 Stat. 829; Feb. 9, 1893, ch. 74, § 4, 27 Stat. 435; July 30, 1894, ch. 172, § 1, 28 Stat. 160; Mar. 3, 1901, ch. 854, § 224, 31 Stat. 1224; June 30, 1902, ch. 1329, 32 Stat. 528; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 23, 1912, ch. 350, 37 Stat. 412; Feb. 22, 1921, ch. 70, § 7, 41 Stat. 1144; Mar. 4, 1923, ch. 265, 42 Stat. 1488; May 21, 1928, ch. 659, 45 Stat. 645).

Section consolidates parts of section 11-204 of the District of Columbia Code, 1940 ed., and section 547 of title 28, U.S.C., 1940 ed.

The Judicial Code provided for the appointment of assistants and messengers in the Supreme Court, criers and "persons to wait upon juries" in the district courts, a messenger in the Court of Customs and Patent Appeals, and a bailiff and a chief messenger in the Court of Claims (see title 28, U.S.C., 1940 ed., §§ 9, 244, 305, 331) and also provided (see same title, § 547) that criers, bailiffs and messengers of the courts of appeals should be allowed the same compensation as allowed for similar services in the district courts, but did not provide for the appointment of said criers, bailiffs and messengers. This section authorizes such appointments.

The provisions of section 224 of title 28, U.S.C., 1940 ed., that the United States marshal shall provide for the expenses of criers, bailiffs and messengers for the circuit courts of appeals are superseded by sections 601-610 of this title vesting such functions in the Administrative Office of the United States Courts.

Provisions of section 11-204 of District of Columbia Code, 1940 ed., relating to appointment and compensation of clerk of the United States Court of Appeals for the District of Columbia are incorporated in sections 711 and 604 of this title, respectively. Other provisions of such section were retained in the District of Columbia Code. (See reviser's note under section 604 of this title.)

Compensation of bailiffs is provided by section 755 of this title. Other provisions of section 547 of title 28, U.S.C., 1940 ed., relating to compensation of criers, clerks, and messengers are incorporated in section 604 of this title.

Marshal for the Court of Appeals for the District of Columbia was authorized by the District of Columbia Appropriation Act of June 29, 1937, 50 Stat. 378.

The duties of criers and bailiffs are made specific consistently with section 755 of this title, and existing administrative practice.

The removal provisions are added to make this section consistent with the same provisions in other sections relating to tenure of court officers.

Changes in phraseology and arrangement were made.

1949 ACT

This section corrects typographical errors in section 713 of title 28, U.S.C.

AMENDMENTS

1982—Pub. L. 97-164 substituted "Librarians" for "Criers, bailiffs, and messengers" in section catchline.

Subsec. (a). Pub. L. 97-164 struck out "and necessary library assistants" after "Each court of appeals may appoint a librarian".

Subsec. (b). Pub. L. 97-164 substituted "The librarian, with the approval of the court, may appoint necessary library assistants in such numbers as the Director of the Administrative Office of the United States Courts may approve" for "Each court of appeals, except the Court of Appeals for the District of Columbia, may appoint a crier and such messengers as may be necessary, all of whom shall be subject to removal by the court" and "The librarian may remove such library assistants with the approval of the court" for "The crier shall also perform the duties of bailiff and messenger".

Subsecs. (c), (d). Pub. L. 97-164 struck out subsecs. (c) and (d) which had provided, respectively, that the Court of Appeals for the District of Columbia could appoint a marshal, who would attend the court at its sessions, be custodian of its courthouse, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court might direct, that the court could also appoint necessary messengers who would be subject to removal by the court, that the United States marshal of the district in which a court of appeals was sitting or in which a circuit judge was present in chambers, could, with the approval of the court or judge, employ necessary bailiffs, that the bailiffs would attend the court, preserve order, and perform such other necessary duties as the court, judge or marshal might direct, and that such bailiffs would receive the same compensation as bailiffs employed for the district courts. See section 714 of this title.

1949—Act May 24, 1949, inserted subsection designation (b) preceding second par. and renumbered former subsecs. (b) and (c) as (c) and (d), respectively.

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.

CONTINUATION OF SERVICE OF MARSHAL FOR COURT OF APPEALS FOR DISTRICT OF COLUMBIA; APPLICABILITY OF OTHER LAW TO COURT DURING SUCH INDIVIDUAL'S SERVICE

Pub. L. 98-620, title IV, § 415, Nov. 8, 1984, 98 Stat. 3364, provided that: "Any individual who, on the date of the enactment of the Federal Courts Improvement Act of 1982 [Pub. L. 97-164, enacted Apr. 2, 1982], was serving as marshal for the Court of Appeals for the District of Columbia under section 713(c) of title 28, United States Code, may, after the date of the enactment of this Act [Nov. 8, 1984], so serve under that section as in effect on the date of the enactment of the Federal Courts Improvement Act of 1982. While such individual so serves, the provisions of section 714(a) of title 28, United States Code, shall not apply to the Court of Appeals for the District of Columbia."

§ 714. Criers and messengers

(a) Each court of appeals may appoint a crier who shall be subject to removal by the court.

(b) The crier, with the approval of the court, may appoint necessary messengers in such number as the Director of the Administrative Office of the United States Courts may approve. The crier may remove such messengers with the approval of the court. The crier shall also perform the duties of bailiff and messenger.

(Added Pub. L. 97-164, title I, § 120(c)(1), Apr. 2, 1982, 96 Stat. 33.)