set out as an Effective Date note under section 1657 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 594 of this title.

§ 597. Relationship with Department of Justice

(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d)(1), and except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

(Added Pub. L. 95–521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1872; amended Pub. L. 97–409, § 2(a)(1)(A), Jan. 3, 1983, 96 Stat. 2039; Pub. L. 100–191, § 2, Dec. 15, 1987, 101 Stat. 1306.)

AMENDMENTS

1987—Pub. L. 100–191 amended section generally, substituting provisions relating to relationship with Department of Justice for substantially similar provisions.

1983—Pub. L. 97–409, § 2(a)(1)(A), substituted ''independent counsel'' for ''special prosecutor'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub. L. 100–191, set out as a note under section 591 of this title.

§ 598. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

(Added Pub. L. 95–521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1873; amended Pub. L. 97–409, §§ 2(a)(1)(A), 7, Jan. 3, 1983, 96 Stat. 2039, 2042; Pub. L. 100–191, § 2, Dec. 15, 1987, 101 Stat. 1306.)

AMENDMENTS

1987—Pub. L. 100–191 amended section generally, substituting provisions relating to severability for provisions relating to termination of chapter. See section 599 of this title.

1983—Pub. L. 97–409, §§ 2(a)(1)(A), 7, substituted reference to the date of enactment of the Ethics in Government Act Amendments of 1982 for reference to the date of enactment of this chapter and substituted ''independent counsel'' for ''special prosecutor'' wherever appearing.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub. L. 100–191, set out as a note under section 591 of this title.

§ 599. Termination of effect of chapter

This chapter shall cease to be effective five years after the date of the enactment of the Independent Counsel Reauthorization Act of 1994, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of such counsel require such continuation until that independent counsel determines such matters have been completed.

(Added Pub. L. 100–191, § 2, Dec. 15, 1987, 101 Stat. 1306; amended Pub. L. 103–270, § 2, June 30, 1994, 108 Stat. 732.)

REFERENCES IN TEXT

The date of the enactment of the Independent Counsel Reauthorization Act of 1994, referred to in text, is the date of enactment of Pub. L. 103–270, which was approved June 30, 1994.

AMENDMENTS

1994—Pub. L. 103–270 substituted ''1994'' for ''1987''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, see section 7(a) of Pub. L. 103–270, set out as an Effective Date of 1994 Amendment; Transition Provisions note under section 591 of this title.

EFFECTIVE DATE

Section effective Dec. 15, 1987, see section 6 of Pub. L. 100–191, set out as a note under section 591 of this title.

PART III—COURT OFFICERS AND EMPLOYEES

Chap.		Sec.
41.	**Administrative Office of United States Courts**	**601**
42.	**Federal Judicial Center**	**620**
43.	**United States Magistrates**	**631**
44.	**Arbitration**	**651**
45.	**Supreme Court**	**671**
47.	**Courts of Appeals**	**711**
49.	**District Courts**	**751**
51.	**United States Court of Federal Claims**	**791**
[53.	**Repealed.]**	
55.	**Court of International Trade**	**871**
57.	**General Provisions Applicable to Court Officers and Employees**	**951**
58.	**United States Sentencing Commission**	**991**

SENATE REVISION AMENDMENT

Chapter 59 was renumbered as Chapter 57 but without change in its section numbers, by Senate amendment. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1992—Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516, substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' as item for chapter 51.

1988—Pub. L. 100–702, title IX, § 901(b), Nov. 19, 1988, 102 Stat. 4663, added item for chapter 44.

1984—Pub. L. 98–473, title II, § 217(b), Oct. 12, 1984, 98 Stat. 2026, added item for chapter 58, effective on the first day of the first calendar month beginning twenty-four months after Oct. 12, 1984 (Nov. 1, 1986).

1982—Pub. L. 97–164, title I, § 121(g)(1), Apr. 2, 1982, 96 Stat. 35, substituted ''United States Claims Court'' for ''Court of Claims'' as item for chapter 51.

Pub. L. 97–164, title I, § 122(a), Apr. 2, 1982, 96 Stat. 36, struck out item for chapter 53.

1980—Pub. L. 96–417, title V, § 501(13), Oct. 10, 1980, 94 Stat. 1742, substituted ''Court of International Trade'' for ''Customs Court'' as item for chapter 55.

1978—Pub. L. 95–598, title II, § 233(b), Nov. 6, 1978, 92 Stat. 2667, directed the addition of item for chapter 50, ''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.

1968—Pub. L. 90–578, title I, § 102(a), Oct. 17, 1968, 82 Stat. 1114, substituted ''United States Magistrates'' for ''United States Commissioners'' as item for chapter 43.

1967—Pub. L. 90–219, title II, § 204, Dec. 20, 1967, 81 Stat. 669, added item for chapter 42.

CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

Sec.
601. Creation; Director and Deputy Director.
602. Employees.
603. Salaries.
604. Duties of Director generally.
605. Budget estimates.
606. Duties of Deputy Director.
607. Practice of law prohibited.
608. Seal.
609. Courts' appointive power unaffected.
610. Courts defined.
611. Retirement of Director.
612. Judiciary Automation Fund.[1]

AMENDMENTS

1989—Pub. L. 101–162, title IV, § 404(b)(2), Nov. 21, 1989, 103 Stat. 1015, added item 612.

1967—Pub. L. 90–219, title II, § 201(b), Dec. 20, 1967, 81 Stat. 668, added item 611.

1959—Pub. L. 86–370, § 5(a)(2), Sept. 23, 1959, 73 Stat. 652, substituted ''Deputy Director'' for ''Assistant Director'' in items 601 and 606.

1949—Act May 24, 1949, ch. 139, § 72a, 63 Stat. 100, inserted an apostrophe after ''Courts'' and struck out comma after ''Courts'' in item 609.

§ 601. Creation; Director and Deputy Director

The Administrative Office of the United States Courts shall be maintained at the seat of government. It shall be supervised by a Director and a Deputy Director appointed and subject to removal by the Chief Justice of the United States, after consulting with the Judicial Conference. The Director and Deputy Director shall be deemed to be officers for purposes of title 5, United States Code.

(June 25, 1948, ch. 646, 62 Stat. 913; Pub. L. 86–370, § 5(a)(1), Sept. 23, 1959, 73 Stat. 652; Pub. L. 101–650, title III, § 307, Dec. 1, 1990, 104 Stat. 5112; Pub. L. 104–317, title VI, § 602, Oct. 19, 1996, 110 Stat. 3857.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C. 1940 ed., § 444 (Mar. 3, 1911, ch. 231, § 302 as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains part of section 444 of title 28, U.S.C., 1940 ed. The remainder of said section 444 is incorporated in sections 603, 606 and 608 of this title.

Changes were made in phraseology.

AMENDMENTS

1996—Pub. L. 104–317 inserted at end ''The Director and Deputy Director shall be deemed to be officers for purposes of title 5, United States Code.''

1990—Pub. L. 101–650 substituted ''Chief Justice of the United States, after consulting with the Judicial Conference'' for ''Supreme Court''.

1959—Pub. L. 86–370 substituted ''Deputy Director'' for ''Assistant Director''.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–370 effective Sept. 23, 1959, see section 7(a) of Pub. L. 86–370.

REFERENCE TO ASSISTANT DIRECTOR DEEMED REFERENCE TO DEPUTY DIRECTOR

Section 5(a)(4) of Pub. L. 86–370 provided that: ''Whenever the Assistant Director of the Administrative Office of the United States Courts is referred to in any other law, such reference shall be deemed to be to the Deputy Director of the Administrative Office of the United States Courts.''

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2(b) of act June 25, 1948, provided that: ''The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however*, That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment.''

§ 602. Employees

(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the Administrative Office of the United States Courts Personnel Act of 1990.

(b) Notwithstanding any other law, the Director may appoint certified interpreters in accordance with section 604(a)(16)(B) of this title without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates, but the compensation of any person appointed under this subsection shall not exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

(c) The Director may obtain personal services as authorized by section 3109 of title 5, at rates not to exceed the appropriate equivalent of the highest rate of pay payable for the highest grade established in the General Schedule, section 5332 of title 5.

(d) All functions of other officers and employees of the Administrative Office and all func-

[1] Section catchline amended by Pub. L. 104–106 without corresponding amendment of chapter analysis.

tions of organizational units of the Administrative Office are vested in the Director. The Director may delegate any of the Director's functions, powers, duties, and authority (except the authority to promulgate rules and regulations) to such officers and employees of the judicial branch of Government as the Director may designate, and subject to such terms and conditions as the Director may consider appropriate; and may authorize the successive redelegation of such functions, powers, duties, and authority as the Director may deem desirable. All official acts performed by such officers and employees shall have the same force and effect as though performed by the Director in person.

(June 25, 1948, ch. 646, 62 Stat. 913; Pub. L. 95–539, §5, Oct. 28, 1978, 92 Stat. 2044; Pub. L. 101–474, §5(a), (q), Oct. 30, 1990, 104 Stat. 1099, 1101; Pub. L. 101–650, title III, §325(b)(4), Dec. 1, 1990, 104 Stat. 5121.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §445 (Mar. 3, 1911, ch. 231, §303, as added Aug. 7, 1939, ch. 501, §1, 53 Stat. 1223).

This section contains provisions in section 445 of title 28, U.S.C., 1940 ed., for appointment of employees.

Words ''with the approval of the Supreme Court'' were omitted to relieve the court of the burden of approving appointments which in practice should properly be made by the Director under the supervision of the Judicial Conference of the United States.

The remainder of section 445 of title 28, U.S.C., 1940 ed., is incorporated in sections 603 and 607 of this title.

Changes were made in phraseology.

REFERENCES IN TEXT

The Administrative Office of the United States Courts Personnel Act of 1990, referred to in subsec. (a), is Pub. L. 101–474, Oct. 30, 1990, 104 Stat. 1097, which amended this section and sections 603 and 604 of this title and sections 2301, 2302, 4301, 4501, 4701, 5102, 5108, 5349, 5595, 5596, 8331, 8347, 8401, and 8402 of Title 5, Government Organization and Employees, and enacted provisions set out below. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–474, §5(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates.''

Subsec. (b). Pub. L. 101–474, §5(q), and Pub. L. 101–650 amended subsec. (b) identically, substituting ''604(a)(16)(B)'' for ''604(a)(15)(B)''.

1978—Pub. L. 95–539, among other changes, substituted provision authorizing the Director to appoint and fix the compensation of necessary employees in accordance with chapter 51 and subchapter III of chapter 53 of title 5 for provision authorizing the Director, subject to the provisions of the civil service laws, to appoint necessary employees for the Administrative Office and inserted provisions relating to appointing and fixing the compensation of certified interpreters, to obtaining personal services as authorized by section 3109 of title 5, and to transferring to the Director all of the functions of the officers and employees of the Administrative Office and all the functions of the organizational units of the Administrative Office with power in the Director to delegate his authority.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 10 of Pub. L. 95–539 provided that:

''(a) Except as provided in subsection (b), this Act [enacting section 1827 and 1828 of this title, amending this section and sections 603, 604, and 1920 of this title, enacting provisions set out as notes under this section and section 1 of this title, and repealing provisions set out as a note under this section] shall take effect on the date of the enactment of this Act [Oct. 28, 1978].

''(b) Section 2 of this Act [enacting sections 1827 and 1828 of this title] shall take effect ninety days after the date of the enactment of this Act [Oct. 28, 1978].''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS PERSONNEL

Sections 1 to 4 and 6 of Pub. L. 101–474 provided that:

''SECTION 1. SHORT TITLE.

''This Act [see References in Text note above and Tables for classification] may be cited as the 'Administrative Office of the United States Courts Personnel Act of 1990'.

''SEC. 2. GENERAL PERSONNEL AUTHORITY.

''The Director of the Administrative Office of the United States Courts (hereinafter in this Act referred to as the 'Director') may appoint, fix the compensation of, assign, and direct such personnel as the Director determines necessary to discharge the duties and functions of the Administrative Office.

''SEC. 3. ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM.

''(a) The Director shall, by regulation, establish a personnel management system for the Administrative Office which provides for the appointment, pay, promotion, and assignment of all employees on the basis of merit, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The system shall apply to all Administrative Office employees except those referred to in section 603 of title 28, United States Code, and shall, at a minimum—

''(1) provide for a schedule of pay rates applicable to all employees; except as provided in paragraph (10), the basic pay of any person appointed under this section shall not exceed the rate of basic pay for level V of the Executive Schedule;

''(2) incorporate pay comparability principles as set forth in section 5301(a) of title 5, United States Code;

''(3) provide for the adjustment of the pay of employees at the same time and in the same percentage amount as rates of basic pay are adjusted for General Schedule and prevailing rate employees, as appropriate;

''(4) establish procedures for employee evaluations, the granting of periodic pay adjustments, incentive awards, and resolution of employee grievances;

''(5) establish procedures for disciplinary actions, including reduction in grade or pay, suspension, and removal, based on unacceptable performance or misconduct, except that—

''(A) such procedures shall be consistent with—

''(i) section 4303 of title 5, United States Code, to the extent that they relate to adverse actions based on unacceptable performance; and

''(ii) chapter 75 of title 5, United States Code, to the extent that they relate to adverse actions covered by such chapter; and

''(B) the Director may exempt from these procedures positions of a confidential or policy-determining character, not to exceed 4 percent of the authorized positions of the Administrative Office;

''(6) establish procedures for premium pay (including overtime), except that the Director may at his discretion implement flexible and compressed work schedules and may exempt the hours constituting such schedules from premium pay to the extent he deems necessary to implement such schedules;

''(7) include the principles set forth in section 2301(b) of title 5, United States Code;

''(8) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code;

''(9) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; the Director must promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment;

''(10) provide for the basic pay of not more than 5 percent of the authorized positions of the Administrative Office (excluding the positions referred to in section 603 of title 28, United States Code) to be set at rates not to exceed the rate of basic pay for positions at level IV of the Executive Schedule; the aggregate pay (including basic pay and incentive awards) of any individual whose basic pay is set under this subsection may not exceed the salary of the Director; and

''(11) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

''(b) The Director may apply the provisions of sections 5723 and 6304(f) of title 5, United States Code, to the positions referred to in subsection (a)(10) and in section 603 of title 28, United States Code, including the Deputy Director.

''(c) The Director may provide for incentive awards for the positions referred to in section 603 of title 28, United States Code, including the Deputy Director, subject to the aggregate pay limitation in subsection (a)(10).

''(d) The Chief Justice of the United States or the Judicial Conference of the United States may grant incentive awards to the Director, except that the Director's aggregate pay for any fiscal year, including salary and incentive awards, may not exceed the salary of a United States circuit judge. The Chief Justice or the Judicial Conference may authorize application of section 5723 of title 5, United States Code, to the Director.

''(e) The Director may develop and conduct programs to meet the short- and long-range training needs of the agency.

''(f) Notwithstanding any other provision of law, an individual who is an employee of the Administrative Office on the day before the effective date of this section and who, as of that day, was entitled to—

''(1) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

''(2) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code, or

''(3) file an appeal with the Equal Employment Opportunity Commission under part 1613 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal so long as the individual remains an employee of the Administrative Office, except that this provision shall not apply to employees in positions referred to in section 603 of title 28, United States Code, or in positions of a confidential or policy-determining character referred to in subsection (a)(10).

''(g) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the Administrative Office by any law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition, except that, with respect to any such employees and applicants for employment, any authority granted under any such law to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch, shall be exercised by the Administrative Office.

''SEC. 4. NONCOMPETITIVE APPOINTMENTS.

''(a) Notwithstanding any other provision of law, any employee of the Administrative Office who has completed at least 1 year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

''(b) A period of continuous service performed as a nontemporary employee of the Administrative Office immediately before the personnel system under section 3 takes effect shall, for purposes of subsection (a), be treated as if it had been performed under such system.

''SEC. 6. AUTHORIZATION.

''There are authorized to be appropriated for fiscal year 1990 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.''

CONTRACT LIMITATIONS

Section 11 of Pub. L. 95–539 provided that: ''Any contracts entered into under this Act or any of the amendments made by this Act [enacting sections 1827 and 1828 of this title, amending this section and sections 603, 604, and 1920 of this title, enacting provisions set out as notes under this section and section 1 of this title, and repealing provisions set out as a note under this section] shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.''

EMPLOYMENT OF EXPERTS OR CONSULTANTS; RATES

Pub. L. 86–370, § 5(b), Sept. 23, 1959, 73 Stat. 652, authorized the Director of the Administrative Office of the United States Courts to procure the temporary or intermittent services of experts or consultants, prior to repeal by Pub. L. 95–539, § 8, Oct. 28, 1978, 92 Stat. 2044.

§ 603. Salaries

The salary of the Director shall be the same as the salary of a district judge. Notwithstanding any other provision of law, the Director shall not be deemed to be an ''employee'' for the purpose of subchapter I of chapter 63 of title 5. The salary of the Deputy Director shall be 92 percent of the salary of the Director. The salaries of six additional positions shall be fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.

(June 25, 1948, ch. 646, 62 Stat. 913; Oct. 15, 1949, ch. 695, §§ 5(b), 6(b), 63 Stat. 881; Oct. 31, 1951, ch. 655, § 43(b), 65 Stat. 725; Pub. L. 86–370, § 5(a)(1), Sept. 23, 1959, 73 Stat. 652; Pub. L. 88–426, title IV, § 403(g), Aug. 14, 1964, 78 Stat. 434; Pub. L. 90–206, title II, § 213(d), Dec. 16, 1967, 81 Stat. 635; Pub. L. 95–539, § 6, Oct. 28, 1978, 92 Stat. 2044; Pub. L. 100–202, § 101(a) [title IV, § 409], Dec. 22, 1987, 101 Stat. 1329, 1329–27; Pub. L. 100–459, title IV, § 406, Oct. 1, 1988, 102 Stat. 2213; Pub. L. 101–474, § 5(b), Oct. 30, 1990, 104 Stat. 1099.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 444, 445 (Mar. 3, 1911, ch. 231, §§ 302, 303, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section consolidates parts of title 28, U.S.C., 1940 ed., §§444, 445. The remainder of said sections are incorporated in sections 601, 602, 606, 607, and 608 of this title.

The figure ''$9,376.50'' was substituted for ''$7,500'' as the salary of the Assistant Director in conformity with section 934 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

The [former] figure, ''$7,500,'' with respect to salary of the Assistant Director, was restored by Senate amendment. See 80th Congress Senate Report No. 1559, amendments Nos. 15 and 65.

AMENDMENTS

1990—Pub. L. 101–474 inserted after first sentence ''Notwithstanding any other provision of law, the Director shall not be deemed to be an 'employee' for the purpose of subchapter I of chapter 63 of title 5. The salary of the Deputy Director shall be 92 percent of the salary of the Director.'' and struck out ''of the Deputy Director and'' after ''The salaries''.

1988—Pub. L. 100–459 substituted ''six'' for ''three''.

1987—Pub. L. 100–202 substituted ''The salaries of the Deputy Director and of three additional positions shall be fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5'' for ''The salary of the Deputy Director shall be in the same amount as the annual rate of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5''.

1978—Pub. L. 95–539 struck out provision authorizing the Director to fix the compensation of Administrative Office employees in accordance with the Classification Act of 1949.

1967—Pub. L. 90–206 increased salaries of Director and Deputy Director from $27,000 and $26,000 per year to a salary equivalent to a United States district judge and the same amount of basic pay for positions at level V of the Executive Schedule under section 5316 of title 5, respectively.

1964—Pub. L. 88–426 substituted ''$27,000 for ''$15,000 and ''$26,000'' for ''$12,500''.

1959—Pub. L. 86–370 substituted ''Deputy Director'' for ''Assistant Director''.

1951—Act Oct. 31, 1951, substituted reference in second paragraph to the Classification Act of 1949 for reference to former Classification Act of 1923.

1949—Act Oct. 15, 1949, increased salaries of Director from $10,000 to $15,000 per annum and Assistant Director from $7,500 to $12,500 per annum.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–539 effective Oct. 28, 1978, see section 10(a) of Pub. L. 95–539, set out as a note under section 602 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 220(a)(3) of title II of Pub. L. 90–206 provided, except as otherwise expressly provided, that: ''Sections 213(d) and (e) [amending this section and section 792 of this title], 214(j), (k), (*l*), (n), and (*o*) [amending sections 60j and 61–1 of Title 2, The Congress, and section 5533 of Title 5, Government Organization and Employees], 215 [amending sections 5314 to 5316 of Title 5] 217 [amending section 5545 of Title 5], 219 [amending sections 136a and 136a–1 of Title 2, sections 42a and 51a of former Title 31, Money and Finance, sections 162a, 166b, and 166b–1 of Title 40, Public Buildings, Property, and Works, and section 39a of Title 44, Public Printing and Documents], and 224(c) [amending material set out as a note under section 102 of Title 2], shall become effective at the beginning of the first pay period which begins on or after the date of enactment of this title [Dec. 16, 1967].''

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–426 effective on first day of first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88–426, see section 501(a) of Pub. L. 88–426.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–370 effective Sept. 23, 1959, see section 7(a) of Pub. L. 86–370.

EFFECTIVE DATE OF 1949 AMENDMENT

The increased compensation provided for by act Oct. 15, 1949, took effect on first day of first pay period which began after Oct. 15, 1949, see section 9 of act Oct. 15, 1949.

SALARY INCREASES

1987—Salaries of Director and Deputy Director increased respectively to $89,500 and $72,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1977—Salaries of Director and Deputy Director increased respectively to $54,500 and $48,500 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

1969—Salaries of Director and Deputy Director increased respectively from $30,000 and $28,000 to $40,000 and $36,000 per annum, commencing February 14, 1969, on recommendation of the President of the United States, see note set out under section 358 of Title 2.

1967—Pub. L. 90–206, title II, §213(a), Dec. 16, 1967, 81 Stat. 635, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed by or pursuant to paragraph (2) of subdivision of a section 62 of the Bankruptcy Act (11 U.S.C. 102(a)(2)), section 3656 of Title 18, United States Code, the third sentence of section 603, sections 671 to 675, inclusive, or section 604(a)(5), of Title 28, United States Code, insofar as the latter section applies to graded positions, are hereby increased by amounts reflecting the respective applicable increases provided by section 202(a) of this title [amending section 5332(a) of Title 5, Government Organization and Employees] in corresponding rates of compensation for officers and employees subject to section 5332 of Title 5, United States Code. The rates of basic compensation of officers and employees holding ungraded positions and whose salaries are fixed pursuant to such section 604(a)(5) may be increased by the amounts reflecting the respective applicable increases provided by section 202(a) of this title [amending section 5332(a) of Title 5] in corresponding rates of compensation for officers and employees subject to section 5332 of Title 5, United States Code.''

Section 213(a) of Pub. L. 90–206 effective as of beginning of first pay period which begins on or after Oct. 1, 1967, see section 220(a)(2) of Pub. L. 90–206, set out as a note under section 5332 of Title 5.

1966—Pub. L. 89–504, title II, §202(a), July 18, 1966, 80 Stat. 293, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed by or pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a)(2)), section 3656 of title 18, United States Code, the third sentence of section 603, sections 671 to 675, inclusive, or section 604(a)(5), of title 28, United States Code, insofar as the latter section applies to graded positions, are hereby increased by amounts reflecting the respective applicable increases provided by section 102(a) of title I of this Act [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended. The rates of basic compensation of officers and employees holding ungraded positions and whose salaries are fixed pursuant to such section 604(a)(5) may be increased by the amounts reflecting the respective applicable increases provided by section 102(a) of title I of this Act in corresponding rates of compensation for officers and em-

ployees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

Section 203 of title II of Pub. L. 89–504 provided that: ''This title shall become effective as follows:

''(1) This section and section 201 [enacting provisions set out as a note under section 1 of this title] shall become effective on the date of enactment of this Act [July 18, 1966],

''(2) Section 202 [enacting provisions set out as note above and under sections 604 and 753 of this title] shall become effective on the first day of the first pay period which begins on or after July 1, 1966.''

1965—Pub. L. 89–301, §12(a), Oct. 29, 1965, 79 Stat. 1121, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed by or pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a)(2)) section 3656 of Title 18, United States Code, the third sentence of section 603, sections 671 to 675, inclusive, or section 604(a)(5), of Title 28, United States Code, insofar as the latter section applies to graded positions, are hereby increased by amounts reflecting the respective applicable increases provided by section 2(a) of this Act [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees]. The rates of basic compensation of officers and employees holding ungraded positions and whose salaries are fixed pursuant to such section 604(a)(5) [section 604(a)(5) of this title] may be increased by the amounts reflecting the respective applicable increases provided by section 2(a) of this Act in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5].''

1964—Pub. L. 88–426, title IV, §402(a), Aug. 14, 1964, 78 Stat. 433, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed by or pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a)(2)), section 3656 of title 18, United States Code, the third sentence of section 603, sections 672 to 675, inclusive, or section 604(a)(5), of title 28, United States Code, insofar as the latter section applies to graded positions, are hereby increased by amounts reflecting the respective applicable increases provided by title I of this Act in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees]. The rates of basic compensation of officers and employees holding ungraded positions and whose salaries are fixed pursuant to section 604(a)(5) [section 604(a)(5) of this title] may be increased by the amounts reflecting the respective applicable increases provided by title I of this Act in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5].''

1962—Pub. L. 87–793, title VI, §1004(a), Oct. 11, 1962, 76 Stat. 866, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed by or pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a)(2)), section 3656 of title 18 of the United States Code, the third sentence of section 603, section 604(a)(5), or section 672 to 675 inclusive, of title 28 of the United States Code, or section 107(a)(6) of the Act of July 31, 1956, as amended (5 U.S.C. 2206(a)(6)) [section 2206(a)(b) of former Title 5, Executive Departments and Government Officers and Employees], are hereby increased by two amounts, the first amount to be effective for the period beginning as of the first day of the first pay period which begins on or after the date of enactment of this Act [Oct 11, 1962], and ending immediately prior to the first day of the first pay period which begins on or after January 1, 1964, and the second amount to be effective on the first day of the first pay period which begins on or after January 1, 1964, and thereafter, which reflect the respective applicable increases provided by title II of this part in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

1960—Pub. L. 86–568, title I, §116(a), July 1, 1960, 74 Stat. 303, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed by or pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a)(2)), section 3656 of title 18 of the United States Code, the third sentence of section 603, section 604(a)(5), or sections 672 to 675, inclusive, of title 28 of the United States Code, or section 107(a)(6) of the Act of July 31, 1956, as amended (5 U.S.C. 2206(a)(6)), are hereby increased by amounts equal to the increases provided by section 612 [112] of this part [amending former section 1113(b) of Title 5] in corresponding rates of compensation paid to officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

Pub. L. 87–367, title III, §302(d), Oct. 4, 1961, 75 Stat. 793, provided that: ''On and after the effective date of this subsection, section 116(a) of the Federal Employees Salary Increase Act of 1960 (Part B of the Act of July 1, 1960; 74 Stat. 303; Public Law 86–568) [set out as a note above] shall not be applicable with respect to the Deputy Director of the Administrative Office of the United States Courts.''

1958—Pub. L. 85–462, §3(a), June 20, 1958, 72 Stat. 207, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. (a)(2)), section 3656 of title 18 of the United States Code, the third sentence of section 603, section 604(a)(5), or sections 672 to 675 inclusive, of title 28 of the United States Code are hereby increased by amounts equal to the increases provided by section 2 of this Act in corresponding rates of compensation paid to officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

Section 2 of this Act, referred to above, amended section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees, to increase compensation rates.

1955—Act June 28, 1955, ch. 189, §3(a), 69 Stat. 175, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed pursuant to paragraph (2) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C., sec. 102(a)(2)), section 3656 of title 18 of the United States Code, the second and third sentences of section 603, section 604(a)(5), or sections 672 to 675, inclusive, of title 28 of the United States Code are hereby increased by amounts equal to the increases provided by section 2 of this Act in corresponding rates of compensation paid to officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

1951—Act Oct. 24, 1951, ch. 554, §1(c), 65 Stat. 613, provided that: ''The rates of basic compensation of officers and employees in or under the judicial branch of the Government whose rates of compensation are fixed pursuant to section 62(2) of the Bankruptcy Act (11 U.S.C. §102(a)(2)), section 3656 of title 18 of the United States Code the second and third sentences of section 603, section 604(5), or sections 672 to 675, inclusive, of title 28 of

the United States Code, or who are appointed pursuant to section 792(b) of title 28 of the United States Code, are hereby increased by amounts equal to the increases provided by subsections (a) and (b) in corresponding rates of compensation paid to officers and employees subject to the Classification Act of 1949 [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

REFERENCE TO ASSISTANT DIRECTOR DEEMED REFERENCE TO DEPUTY DIRECTOR

References in any other law to Assistant Director of the Administrative Office of the United States Courts deemed to be reference to the Deputy Director of the Administrative Office of the United States Courts, see note set out under section 601 of this title.

§ 604. Duties of Director generally

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

(1) Supervise all administrative matters relating to the offices of clerks and other clerical and administrative personnel of the courts;

(2) Examine the state of the dockets of the courts; secure information as to the courts' need of assistance; prepare and transmit semiannually to the chief judges of the circuits, statistical data and reports as to the business of the courts;

(3) Submit to the annual meeting of the Judicial Conference of the United States, at least two weeks prior thereto, a report of the activities of the Administrative Office and the state of the business of the courts, together with the statistical data submitted to the chief judges of the circuits under paragraph (a)(2) of this section, and the Director's recommendations, which report, data and recommendations shall be public documents.

(4) Submit to Congress and the Attorney General copies of the report, data and recommendations required by paragraph (a)(3) of this section;

(5) Fix the compensation of clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants, and other employees of the courts whose compensation is not otherwise fixed by law;

(6) Determine and pay necessary office expenses of courts, judges, and those court officials whose expenses are by law allowable, and the lawful fees of United States Commissioners;

(7) Regulate and pay annuities to widows and surviving dependent children of justices and judges of the United States, judges of the United States Court of Federal Claims, bankruptcy judges, United States magistrates, Directors of the Federal Judicial Center, and Directors of the Administrative Office, and necessary travel and subsistence expenses incurred by judges, court officers and employees, and officers and employees of the Administrative Office, and the Federal Judicial Center, while absent from their official stations on official business, without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5, except that the reimbursement of subsistence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;

(8) Disburse, directly or through the several United States marshals, moneys appropriated for the maintenance and operation of the courts;

(9) Establish pretrial services pursuant to section 3152 of title 18, United States Code;

(10)(A) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, supplies, and other personal property for the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)); (B) provide or make available readily to each court appropriate equipment for the interpretation of proceedings in accordance with section 1828 of this title; and (C) enter into and perform contracts and other transactions upon such terms as the Director may deem appropriate as may be necessary to the conduct of the work of the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)), and contracts for nonpersonal services providing pretrial services, agencies, for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title may be awarded without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5);

(11) Audit vouchers and accounts of the courts, the Federal Judicial Center, the offices providing pretrial services, and their clerical and administrative personnel;

(12) Provide accommodations for the courts, the Federal Judicial Center, the offices providing pretrial services and their clerical and administrative personnel;

(13) Lay before Congress, annually, statistical tables that will accurately reflect the business transacted by the several bankruptcy courts, and all other pertinent data relating to such courts;

(14) Pursuant to section 1827 of this title, establish a program for the certification and utilization of interpreters in courts of the United States;

(15) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;

(16)(A) In those districts where the Director considers it advisable based on the need for interpreters, authorize the full-time or part-time employment by the court of certified interpreters; (B) where the Director considers it advisable based on the need for interpreters, appoint certified interpreters on a full-time or part-time basis, for services in various courts when he determines that such appointments will result in the economical provision of interpretation services; and (C) pay out of moneys appropriated for the judiciary interpreters' salaries, fees, and expenses, and other costs which may accrue in accordance with the provisions of sections 1827 and 1828 of this title;

(17) In the Director's discretion, (A) accept and utilize voluntary and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5, United States Code; and (B) accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the judicial branch of Government, but gifts or bequests of money shall be covered into the Treasury;

(18) Establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments;

(19) Regulate and pay annuities to bankruptcy judges and United States magistrates in accordance with section 377 of this title and paragraphs (1)(B) and (2) of section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988;

(20) Periodically compile—

(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

(B) the rules which are prescribed under section 372(c)(11) of this title; and

(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;

(21) Establish a program of incentive awards for employees of the judicial branch of the United States Government, other than any judge who is entitled to hold office during good behavior;

(22) Receive and expend, either directly or by transfer to the United States Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress/egress control, inspection of packages, directed security patrols, and other similar activities;

(23) Regulate and pay annuities to judges of the United States Court of Federal Claims in accordance with section 178 of this title; and[1]

(24)[2] Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.[3]

(24)[2] Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis.

(b) The clerical and administrative personnel of the courts shall comply with all requests by the Director for information or statistical data as to the state of court dockets.

(c) Inspection of court dockets outside the continental United States may be made through United States officials residing within the jurisdiction where the inspection is made.

(d) The Director, under the supervision and direction of the conference, shall:

(1) supervise all administrative matters relating to the offices of the United States magistrates;

(2) gather, compile, and evaluate all statistical and other information required for the performance of his duties and the duties of the conference with respect to such officers;

(3) lay before Congress annually statistical tables and other information which will accurately reflect the business which has come before the various United States magistrates, including (A) the number of matters in which the parties consented to the exercise of jurisdiction by a magistrate, (B) the number of appeals taken pursuant to the decisions of magistrates and the disposition of such appeals, and (C) the professional background and qualifications of individuals appointed under section 631 of this title to serve as magistrate;

(4) prepare and distribute a manual, with annual supplements and periodic revisions, for the use of such officers, which shall set forth their powers and duties, describe all categories of proceedings that may arise before them, and contain such other information as may be required to enable them to discharge their powers and duties promptly, effectively, and impartially.

(e) The Director may promulgate appropriate rules and regulations approved by the conference and not inconsistent with any provision of law, to assist him in the performance of the duties conferred upon him by subsection (d) of this section. Magistrates shall keep such records and make such reports as are specified in such rules and regulations.

(f) The Director may make, promulgate, issue, rescind, and amend rules and regulations (including regulations prescribing standards of conduct for Administrative Office employees) as may be necessary to carry out the Director's functions, powers, duties, and authority. The Director may publish in the Federal Register such rules, regulations, and notices for the judicial branch of Government as the Director determines to be of public interest; and the Director of the Federal Register hereby is authorized to accept and shall publish such materials.

(g)(1) When authorized to exchange personal property, the Director may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired, but any transaction carried out under the authority of this subsection shall be evidenced in writing.

(2) The Director hereby is authorized to enter into contracts for public utility services and related terminal equipment for periods not exceeding ten years.

(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

(B) The sale or disposal of recyclable materials under subparagraph (A) shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

[1] So in original. The word "and" probably should not appear.

[2] So in original. There are two pars. (24).

[3] So in original. The period probably should be "; and".

(C) Proceeds from the sale of recyclable materials under subparagraph (A) shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.

(h)(1) The Director shall, out of funds appropriated for the operation and maintenance of the courts, provide facilities and pay necessary expenses incurred by the judicial councils of the circuits and the Judicial Conference under section 372 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821 of this title. Administrative and professional assistance from the Administrative Office of the United States Courts may be requested by each judicial council and the Judicial Conference for purposes of discharging their duties under section 372 of this title.

(2) The Director of the Administrative Office of the United States Courts shall include in his annual report filed with the Congress under this section a summary of the number of complaints filed with each judicial council under section 372(c) of this title, indicating the general nature of such complaints and the disposition of those complaints in which action has been taken.

(June 25, 1948, ch. 646, 62 Stat. 914; Aug. 3, 1956, ch. 944, §3, 70 Stat. 1026; Pub. L. 90–219, title II, §203(a)–(c), Dec. 20, 1967, 81 Stat. 669; Pub. L. 90–578, title II, §201, Oct. 17, 1968, 82 Stat. 1114; Pub. L. 92–397, §4, Aug. 22, 1972, 86 Stat. 580; Pub. L. 93–619, title II, §204, Jan. 3, 1975, 88 Stat. 2089; Pub. L. 95–539, §§3, 4, Oct. 28, 1978, 92 Stat. 2043; Pub. L. 95–598, title II, §225, Nov. 6, 1978, 92 Stat. 2664; Pub. L. 96–82, §5, Oct. 10, 1979, 93 Stat. 645; Pub. L. 96–458, §5, Oct. 15, 1980, 94 Stat. 2040; Pub. L. 96–523, §1(c)(1), Dec. 12, 1980, 94 Stat. 3040; Pub. L. 97–267, §7, Sept. 27, 1982, 96 Stat. 1139; Pub. L. 99–554, title I, §116, Oct. 27, 1986, 100 Stat. 3095; Pub. L. 100–185, §2, Dec. 11, 1987, 101 Stat. 1279; Pub. L. 100–659, §6(a), Nov. 15, 1988, 102 Stat. 3918; Pub. L. 100–702, title IV, §402(a), title X, §§1008, 1010, 1011, 1020(a)(2), Nov. 19, 1988, 102 Stat. 4650, 4667, 4668, 4671; Pub. L. 101–474, §5(r), Oct. 30, 1990, 104 Stat. 1101; Pub. L. 101–647, title XXV, §2548, Nov. 29, 1990, 104 Stat. 4888; Pub. L. 101–650, title III, §§306(e)(1), 325(c)(1), Dec. 1, 1990, 104 Stat. 5111, 5121; Pub. L. 102–572, title V, §503, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4513, 4516.)

HISTORICAL AND REVISION NOTES

Based on sections 726–1 and 726a of title 18, U.S.C., 1940 ed., Criminal Code and Criminal Procedure, and sections 1130(a)(b) and 1131 of title 26, U.S.C., 1940 ed., Internal Revenue Code, title 28, U.S.C., 1940 ed., §§9, 128, 222a, 245, 268a, 278a, 302–306, 374b, 446, 447, 450, 544, 545, 547, 557, 558, 560, 561, 561a, 562, 563, 565, 566, 595, and 596 and sections 11–204 and 11–403, District of Columbia Code, 1940 ed. (R.S. §§1075, 1085; Mar. 3, 1891, ch. 517, §§2, 9, 26 Stat. 826, 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, 1905, ch. 1487, 33 Stat. 1259; Mar. 3, 1911, ch. 231, §5, 36 Stat. 1088; Mar. 3, 1911, ch. 231, §118a, as added June 17, 1930, ch. 509, 46 Stat. 774; Mar. 3, 1911, ch. 231, §118b, as added Feb. 17, 1936, ch. 75, 49 Stat. 1140; Mar. 3, 1911, ch. 231, §§140, 163, 171, 189–193, 291, 36 Stat. 1136, 1140, 1141, 1143, 1167; Mar. 3, 1911, ch. 231, §§304, 305, 308, as added Aug. 7, 1939, ch. 501, §1, 53 Stat. 1223; Aug. 23, 1912, ch. 350, 37 Stat. 412; Feb. 26, 1919, ch. 49, §§1, 2, 3, 4, 5, 7, 8, 40 Stat. 1182; July 19, 1919, ch. 24, §1, 41 Stat. 210; Nov. 4, 1919, ch. 93, §1, 41 Stat. 338; Feb. 11, 1921, ch. 46, 41 Stat. 1099; Feb. 22, 1921, ch. 70, §7, 41 Stat. 1144; Mar. 4, 1921, ch. 161, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1084; Mar. 4, 1923, ch. 265, 42 Stat. 1488; May 28, 1924, ch. 204, title II, 43 Stat. 221; Feb. 27, 1925, ch. 364, title II, 43 Stat. 1030; Apr. 29, 1926, ch. 195, title II, 44 Stat. 346, 347; May 21, 1928, ch. 659, 45 Stat. 645; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475; June 16, 1930, ch. 494, 46 Stat. 589; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921; Apr. 27, 1938, ch. 180, title II, §1, 52 Stat. 264; Feb. 10, 1939, ch. 2, §§1130(a)(b), 1131, 53 Stat. 162, 163; June 29, 1939, ch. 248, title II, 53 Stat. 902; May 14, 1940, ch. 189, titles III, IV, 54 Stat. 204, 209, 210; June 28, 1941, ch. 258, title IV, 55 Stat. 300–302; July 2, 1942, ch. 472, title IV, 56 Stat. 503, 504; June 28, 1943, ch. 173, title II, §201, 57 Stat. 242, 243; June 26, 1944, ch. 277, title II, §201, 58 Stat. 357; Dec. 7, 1944, ch. 522, §1, 58 Stat. 796; May 21, 1945, ch. 129, titles II, IV, 59 Stat. 184, 199; July 5, 1946, ch. 541, title IV, 60 Stat. 478, 479).

For purposes of uniformity, all provisions of law governing the regulation and allowance of office, travel, and subsistence expenses of all officers and employees of the courts, except those provisions relating to Supreme Court officers and employees, are incorporated in subsection (a)(6)(7) of this section. Likewise the provisions respecting the compensation of court officers and employees, except those of the Supreme Court, are incorporated in subsection (a)(5). In each instance the power to fix and determine such salaries and expenses is transferred to the Director of the Administrative Office of the United States Courts. This change is in conformity with the Administrative Office Act 1939 included in this chapter.

Compensation of bailiffs however is provided by sections 713 and 755 of this title and that of court reporters by section 753 of this title.

Salaries and travel expenses of Court of Claims Commissioners are covered by section 792 of this title.

The language ''and the lawful fees of United States Commissioners'' in subsection (a)(6) and ''the offices of the United States Commissioners'' in subsection (a)(9) is new. It conforms with sections 633, 636 and 639 of this title.

Subsection (a)(5)(7) covers the provisions of section 726–1 and 726a of title 18, U.S.C., 1940 ed., which provided that probation officers' salaries should not be less than $1,800 nor more than $3,600 per annum and their traveling expenses should not exceed more than 4 cents per mile.

Words ''and officers and employees of the Administrative Office'' were added in subsection (a)(7) to expressly authorize travel and subsistence expenses of such officers and employees.

The power to fix such pay and allowances is transferred to the Director as above indicated, and conforms with the Administrative Office Act of 1939. For further explanation of the general supervision of probation officers, see reviser's note under section 3654, H. Rept. to accompany H.R. 3190 for revision of title 18, U.S.C.

Subsection (a)(8) covers the provisions of section 1131 of title 26, U.S.C. 1940 ed. Such section 1131 authorized the Tax Court, successor to the Board of Tax Appeals, to make expenditures for personal services, rent, law books, reference books, periodicals, and provided that all expenditures should be paid out of appropriations for the Tax Court, on itemized vouchers approved by the court.

Two references to ''officials and employees covered by this chapter'' were changed to ''clerical and administrative personnel,'' following the language of paragraph (a)(1), conferring general power to supervise such personnel as respects administrative matters.

Similar language was used in paragraph (b) instead of ''The clerks of the district courts, their deputies and assistants, and all other employees of said courts.''

The provisions of section 374b of title 28, U.S.C., 1940 ed., based on successive acts relating to classification and compensation of secretaries and law clerks were omitted as temporary and unnecessary in revision, in

view of subsection (a)(5) of this section under which the salaries of all personnel are necessarily limited by current appropriation acts.

For increases in basic rates of compensation for other judicial officers and employees see, also, section 521 of Act June 30, 1945, ch. 212.

The designation ''senior circuit judges'' was changed to ''chief judges of the circuits'' in conformity with section 45 of this title.

Provisions of section 11–204 of District of Columbia Code, 1940 ed., relating to appointment of clerk of the United States Court of Appeals for the District of Columbia, and deputy clerk, crier, and messenger thereof, and the provisions relating to accounting for fees, are incorporated in sections 711 and 713 of this title. Provisions of said section, requiring the clerk of such court to give bond, were omitted as covered by section 952 of this title. Provisions of said section, relating to regulation of clerk's fees by such court were omitted so as to render uniform the method of such regulation as prescribed by section 1913 of this title, and the provisions of said section, placing a maximum of five hundred dollars per year on the office expenditures of the clerk of such court, were omitted as inconsistent with this consolidated section.

For distribution of other provisions of sections on which this section is based, see Distribution Table.

Changes were made in phraseology and arrangement.

SENATE REVISION AMENDMENTS

By Senate amendment, all provisions relating to the Tax Court were eliminated, therefore, as finally enacted, sections 1130(a)(b) and 1131 of Title 26, U.S.C., Internal Revenue Code [1940 ed.], did not constitute part of the source of this section. However, no change in the text of the section was necessary. See 80th Congress Senate Report No. 1559.

As finally enacted, part of act July 9, 1947, ch. 211, title IV, 61 Stat. 304, 305, which was classified to title 28, U.S.C., 1946 ed., § 374b, became one of the sources of this section and was accordingly included in the schedule of repeals by Senate amendment. See 80th Congress Senate Report No. 1559.

REFERENCES IN TEXT

Section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, referred to in subsec. (a)(19), is section 2(c) of Pub. L. 100–659, Nov. 15, 1988, 102 Stat. 3916, which is set out as a note under section 377 of this title.

AMENDMENTS

1992—Subsec. (a)(7), (23). Pub. L. 102–572, § 902(b)(1), substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

Subsec. (g)(3). Pub. L. 102–572, § 503, added par. (3).

1990—Subsec. (a)(7). Pub. L. 101–650, § 325(c)(1), amended Pub. L. 100–702, § 1011. See 1988 Amendment note below.

Pub. L. 101–650, § 306(e)(1)(B)(i), inserted ''judges of the United States Claims Court,'' before ''bankruptcy judges''.

Subsec. (a)(19). Pub. L. 101–474, § 5(r), and Pub. L. 101–650, § 306(e)(1)(A), made identical technical amendment to directory language of Pub. L. 100–702, § 402(a)(1). See 1988 Amendment note below.

Subsec. (a)(23). Pub. L. 101–650, § 306(e)(1)(B)(iii), added par. (23). Former par. (23) redesignated (24).

Pub. L. 101–474, § 5(r), and Pub. L. 101–650, § 306(e)(1)(A), made identical technical amendments to directory language of Pub. L. 100–702, § 402(a)(1). See 1988 Amendment note below.

Subsec. (a)(24). Pub. L. 101–650, § 306(e)(1)(B)(ii), redesignated par. (23), relating to performance of other duties, as (24).

Pub. L. 101–647 added par. (24) relating to statistical tables.

1988—Subsec. (a)(2). Pub. L. 100–702, § 1020(a)(2), substituted ''semiannually'' for ''quarterly''.

Subsec. (a)(7). Pub. L. 100–702, § 1011, as amended by Pub. L. 101–650, § 325(c)(1), which directed amendment of par. (7) ''by [sic] at the end the following: 'without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5, except that the reimbursement of subsistence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;' '' was executed by inserting the new language after the comma at the end to reflect the probable intent of Congress.

Pub. L. 100–659, § 6(a)(1), inserted ''bankruptcy judges, United States magistrates,'' after ''United States,''.

Subsec. (a)(14), (15). Pub. L. 100–702, § 1008(1), redesignated par. (14), relating to provision of special interpretation services in courts of United States, as (15). Former par. (15) redesignated (16).

Subsec. (a)(16), (17). Pub. L. 100–702, § 1008(1), redesignated pars. (15) and (16) as (16) and (17), respectively. Former par. (17) redesignated (18).

Subsec. (a)(18). Pub. L. 100–702, § 1008(1), redesignated par. (17) as (18). Former par. (18), as added by Pub. L. 100–659, redesignated (19).

Pub. L. 100–659, § 6(a)(3), added par. (18). Former par. (18) redesignated (19).

Subsec. (a)(19). Pub. L. 100–702, § 1008(2), redesignated par. (19), as added by Pub. L. 100–702, § 402(a)(2), as (20).

Pub. L. 100–702, § 402(a), as amended by Pub. L. 101–474, § 5(r), and Pub. L. 101–650, § 306(e)(1)(A), redesignated par. (19), relating to performance of other duties, as (23) and added par. (19) relating to compilation of rules and orders.

Pub. L. 100–659, § 6(a)(2), redesignated par. (18), relating to performance of other duties, as (19).

Subsec. (a)(20). Pub. L. 100–702, § 1008(2), redesignated par. (19), as added by Pub. L. 100–702, § 402(a)(2), as (20).

Subsec. (a)(21). Pub. L. 100–702, § 1008(2), added par. (21).

Subsec. (a)(22). Pub. L. 100–702, § 1010, added par. (22).

Subsec. (a)(23). Pub. L. 100–702, § 402(a)(1), as amended by Pub. L. 101–474, § 5(r), and Pub. L. 101–650, § 306(e)(1)(A), redesignated par. (19), relating to performance of other duties, as (23).

1987—Subsec. (a)(17), (18). Pub. L. 100–185 added par. (17) and redesignated former par. (17) as (18).

1986—Subsec. (f). Pub. L. 99–554 struck out subsec. (f) as added by Pub. L. 99–598, § 225(b), which related to the Director naming qualified persons to membership on the panel of trustees, their number, qualifications, removal, etc.

1982—Subsec. (a)(9). Pub. L. 97–267, § 7(1), struck out ''agencies'' after ''pretrial services''.

Subsec. (a)(10). Pub. L. 97–267, § 7(2), substituted ''providing pretrial services'' for ''for pretrial services agencies''.

Subsec. (a)(11). Pub. L. 97–267, § 7(3), substituted ''offices providing pretrial services'' for ''pretrial service agencies''.

Subsec. (a)(12). Pub. L. 97–267, § 7(4), substituted ''offices providing pretrial services'' for ''pretrial services agencies''.

1980—Subsec. (a)(16)(A). Pub. L. 96–523 inserted ''(b)'' after ''3102''.

Subsec. (h). Pub. L. 96–458 added subsec. (h).

1979—Subsec. (d)(3). Pub. L. 96–82 added cls. (A), (B), and (C).

1978—Subsec. (a)(10). Pub. L. 95–539, § 3(a), expanded the duties of the Director to include providing or making available equipment for interpretation of proceedings in accordance with section 1828 of this title and to include entering into and performing contracts necessary to the conduct of the work of the judicial branch and exempted from the provisions of section 5 of title 41 contracts for nonpersonal services for pretrial agencies, for interpretation of proceedings, and for special interpretation services pursuant to section 1828 of this title.

Subsec. (a)(13), (14). Pub. L. 95–598, § 225(a), added par. (13) relating to annual statistical tables reflecting the

business of the several bankruptcy courts, and redesignated former par. (13), relating to provision of special interpretation services in courts of the United States, as (14).

Subsec. (a)(13) to (16). Pub. L. 95–539, §3(b), (c), added pars. (13) to (16). Former par. (13) redesignated (17).

Subsec. (a)(17). Pub. L. 95–539, §3(b), redesignated former par. (13) as (17).

Subsec. (f). Pub. L. 95–598, §225(b), added subsec. (f) relating to the naming of qualified persons to membership on the panel of trustees.

Subsecs. (f), (g). Pub. L. 95–539, §4, added subsecs. (f) and (g).

1975—Subsec. (a)(9). Pub. L. 93–619 added par. (9). Former par. (9) redesignated (10).

Subsec. (a)(10). Pub. L. 93–619 redesignated former par. (9) as (10) and substituted ''the offices of the United States magistrates and commissioners, and the offices of pretrial services agencies'' for and the Administrative Office and the offices of the United States magistrates''. Former par. (10) redesignated (11).

Subsec. (a)(11). Pub. L. 93–619 redesignated former par. (10) as (11) and inserted reference to pretrial service agencies. Former par. (11) redesignated (12).

Subsec. (a)(12). Pub. L. 93–619 redesignated former par. (11) as (12) and inserted reference to pretrial service agencies. Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 93–619 redesignated former (12) as (13).

1972—Subsec. (a)(7). Pub. L. 92–397 substituted ''children of justices and judges of the United States'' for ''children of judges''.

1968—Subsec. (a)(9). Pub. L. 90–578, §201(a), substituted ''United States magistrates'' for ''United States Commissioners''.

Subsecs. (d), (e). Pub. L. 90–578 §201(b), added subsecs. (d) and (e).

1967—Subsec. (a)(7). Pub. L. 90–219, §203(a), amended par. (7) generally, inserting '', Directors of the Federal Judicial Center, and Directors of the Administrative Office,'' after ''judges'' and ''and the Federal Judicial Center,'' after ''Administrative Office''.

Subsec. (a)(9). Pub. L. 90–219, §203(b), inserted '', the Federal Judicial Center,'' after ''courts''.

Subsec. (a)(10), (11). Pub. L. 90–219, §203(c), inserted '', the Federal Judicial Center,'' after ''courts''.

1956—Subsec. (a)(7). Act Aug. 3, 1956, inserted ''annuities to widows and surviving dependent children of judges and'' after ''Regulate and pay''.

CHANGE OF NAME

Reference to United States Commissioners deemed to be reference to United States Magistrates pursuant to Pub. L. 90–578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1108. See chapter 43 (§631 et seq.) of this title.

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 503 of Pub. L. 102–572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102–572, set out as a note under section 905 of Title 2, The Congress.

Amendment by section 902(b)(1) of Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 306(e)(1) of Pub. L. 101–650 applicable to judges of, and senior judges in active service with, the United States Court of Federal Claims on or after Dec. 1, 1990, see section 306(f) of Pub. L. 101–650, as amended, set out as a note under section 8331 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 402(a) of Pub. L. 100–702 effective Dec. 1, 1988, see section 407 of Pub. L. 100–702, set out as a note under section 2071 of this title.

Amendment by Pub. L. 100–659 effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrates [now United States magistrate judges] who retire on or after Nov. 15, 1988, with exception for judges and magistrates retiring on or after July 31, 1987, see section 9 of Pub. L. 100–659, set out as an Effective Date note under section 377 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99–554, set out as a note under section 581 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–523 effective sixty days after Dec. 12, 1980, see section 3 of Pub. L. 96–523, set out as a note under section 3102 of Title 5, Government Organization and Employees.

Amendment by Pub. L. 96–458 effective Oct. 1, 1981, see section 7 of Pub. L. 96–458, set out as a note under section 331 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

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.

Amendment by Pub. L. 95–539 effective Oct. 28, 1978, see section 10(a) of Pub. L. 95–539, set out as a note under section 602 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment by magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

REPORTS BY DIRECTOR OF ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

For requirement that Director of Administrative Office of the United States Courts include statistical information about implementation of chapter 44 of this title in annual report under section 604(a)(3) of this title, see section 903(a) of Pub. L. 100–702, set out as a note under section 651 of this title.

1970 INCREASE IN PAY RATES OF JUDICIAL BRANCH EMPLOYEES WHOSE RATES OF PAY ARE FIXED BY ADMINISTRATIVE ACTION

Adjustment of rates of pay of judicial branch employees whose rates of pay are fixed by administrative action by not to exceed the amounts of the adjustment for corresponding rates for employees subject to the section 2(a) of Pub. L. 91–231, which raised such corresponding rates by 6 percent, effective on the first day of the first pay period which begins on or after Dec. 27, 1969, see Pub. L. 91–231, set out as a note under section 5332 of Title 5, Government Organization and Employees.

COMPENSATION AND APPOINTMENT OF SECRETARIES AND LAW CLERKS

Provisions authorizing the appointment and compensation of secretaries and law clerks to circuit and district judges in such number and at such rates of compensation as may be determined by the Judicial Conference of the United States were contained in the following appropriation acts:

Dec. 12, 1985, Pub. L. 99–180, title IV, 99 Stat. 1154.

Aug. 30, 1984, Pub. L. 98–411, title IV, 98 Stat. 1571.

Nov. 28, 1983, Pub. L. 98–166, title IV, 97 Stat. 1099.

Dec. 21, 1982, Pub. L. 97–377, §101(d) [S. 2956, title IV], 96 Stat. 1866.

Dec. 15, 1981, Pub. L. 97–92, §101(h) [incorporating Pub. L. 96–536, §101(*o*); H.R. 7584, title IV], 95 Stat. 1190.

Dec. 16, 1980, Pub. L. 96–536, §101(*o*) [H.R. 7584, title IV], 94 Stat. 3169.
Sept. 24, 1979, Pub. L. 96–68, title IV, 93 Stat. 428.
Oct. 10, 1978, Pub. L. 95–431, title IV, 92 Stat. 1037.
Aug. 2, 1977, Pub. L. 95–86, title IV, 91 Stat. 435.
July 14, 1976, Pub. L. 94–362, title IV, 90 Stat. 953.
Oct. 21, 1975, Pub. L. 94–121, title IV, 89 Stat. 630.
Oct. 5, 1974, Pub. L. 93–433, title IV, 88 Stat. 1202.
Nov. 27, 1973, Pub. L. 93–162, title IV, 87 Stat. 651.
Oct. 25, 1972, Pub. L. 92–544, title IV, 86 Stat. 1126.
Aug. 10, 1971, Pub. L. 92–77, title IV, 85 Stat. 262.
Oct. 21, 1970, Pub. L. 91–472, title IV, 84 Stat. 1056.
Dec. 24, 1969, Pub. L. 91–153, title IV, 83 Stat. 419.
Aug. 9, 1968, Pub. L. 90–470, title IV, 82 Stat. 685.
Nov. 8, 1967, Pub. L. 90–133, title IV, 81 Stat. 427.
Nov. 8, 1966, Pub. L. 89–797, title IV, 80 Stat. 1499.
Sept. 2, 1965, Pub. L. 89–164, title IV, 79 Stat. 638.
Aug. 31, 1964, Pub. L. 88–527, title IV, 78 Stat. 729.
Dec. 30, 1963, Pub. L. 88–245, title IV, 77 Stat. 795.
Oct. 18, 1962, Pub. L. 87–843, title IV, 76 Stat. 1099.
Sept. 21, 1961, Pub. L. 87–264, title III, 75 Stat. 555.
Aug. 31, 1960, Pub. L. 86–678, title III, 74 Stat. 566.
July 13, 1959, Pub. L. 86–84, title III, 73 Stat. 192.
June 30, 1958, Pub. L. 85–474, title III, 72 Stat. 254.
June 11, 1957, Pub. L. 85–40, title III, 70 Stat. 65.
June 20, 1956, ch. 414, title III, 70 Stat. 310.
July 7, 1955, ch. 279, title III, 69 Stat. 276.
July 2, 1954, ch. 455, title II, 68 Stat. 410.
Aug. 1, 1953, ch. 304, title II, 67 Stat. 334.
July 10, 1952, ch. 651, title IV, 66 Stat. 569.
Oct. 22, 1951, ch. 533, title IV, 65 Stat. 596.
Sept. 6, 1950, ch. 896, Ch. III, title IV, 64 Stat. 631.

LIMITATION ON AGGREGATE SALARIES OF SECRETARIES AND LAW CLERKS

1967—Pub. L. 90–206, title II, §213(b), Dec. 16, 1967, 81 Stat. 635, provided that: ''The limitations provided by applicable law on the effective date of this section [see Effective Date of 1967 Amendment Note set out under section 5332 of Title 5, Government Organization and Employees] with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges are hereby increased by amounts which reflect the respective applicable increases provided by section 202(a) of this title [amending section 5332(a) of Title 5] in corresponding rates of compensation for officers and employees subject to section 5332 of Title 5, United States Code''.

Section 213(b) of Pub. L. 90–206 effective as of the beginning of the first pay period which begins on or after Oct. 1, 1967, see section 220(a)(2) of Pub. L. 90–206, set out as a note under section 5332 of Title 5.

1966—Pub. L. 89–504, title II, §202(b), July 18, 1966, 80 Stat. 294, provided that: ''The limitations provided by applicable law on the effective date of this section with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges are hereby increased by amounts which reflect the respective applicable increases provided by section 102(a) of title I of this Act [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

Provision effective first day of first pay period which begins on or after July 1, 1966, see section 203 of Pub. L. 89–504, set out as a note under section 603 of this title.

1965—Pub. L. 89–301, §12(b), Oct. 29, 1965, 79 Stat. 1122, provided that: ''The limitations provided by applicable law on the effective date of this section with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges are hereby increased by amounts which reflect the respective applicable increases provided by section 2(a) of this Act [amending section 1113(b) of former Title 5, Executive Departments and Government Officers and Employees] in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

1964—Pub. L. 88–426, title IV, §402(b), Aug. 14, 1964, 78 Stat. 433, provided that: ''The limitation provided by applicable law on the effective date of this section with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges are hereby increased by amounts which reflect the respective applicable increases provided by the title I of this Act in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

1962—Pub. L. 87–793, title VI, §1004(b), Oct. 11, 1962, 76 Stat. 866, provided that: ''The limitations provided by applicable law on the effective date of this section with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges are hereby increased by two amounts, the first amount to be effective for the period beginning as of the first day of the first pay period which begins on or after the date of enactment of this Act [Oct. 11, 1962], and ending immediately prior to the first day of the first pay period which begins on or after January 1, 1964, and the second amount to be effective on the first day of the first pay period which begins on or after January 1, 1964, and thereafter, which reflect the respective applicable increases provided by title II of this part in corresponding rates of compensation for officers and employees subject to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].''

1960—Pub. L. 86–568, title I, §116(b), July 1, 1960, 74 Stat. 303, provided that: ''The limitations provided by applicable law on the effective date of this section with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges are hereby increased by the amounts necessary to pay the additional basic compensation provided by this part.''

Words ''this part'', referred to above, means Part B of Pub. L. 86–568, which enacted section 932e of former Title 5, Executive Departments and Government Officers and Employees, amended section 753 of this title, sections 1113, 2091, 2252 and 3002 of former Title 5, sections 867 and 870 of Title 22, Foreign Relations and Intercourse, and former sections 4103, 4107 and 4108 of Title 38, Veterans' Benefits, and enacted notes set out under sections 603 and 604 of this title, sections 60a and 60f of Title 2, The Congress, sections 1113, and 2252 of former Title 5, section 590h of Title 16, Conservation, and section 867 of Title 22,

1958—Pub. L. 85–462, §3(b), June 20, 1958, 72 Stat. 207, provided that: ''The limitations of $13,485 and $18,010 with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges, contained in the paragraph designated ''Salaries of supporting personnel'' in the Judiciary Appropriation Act, 1958 (71 Stat. 65; Public Law 85–49), or any subsequent appropriation Act, shall be increased by the amounts necessary to pay the additional basic compensation provided by this Act.''

1955—Act June 28, 1955, ch. 189, §3(b), 69 Stat. 175, provided that: ''The limitations of $10,560 and $14,355 with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges, contained in the paragraph under the heading 'SALARIES OF SUPPORTING PERSONNEL' in the Judiciary Appropriation Act, 1955 (Public Law 470, Eighty-third Congress), or in any subsequent appropriation Act, shall be increased by the amounts necessary to pay the additional basic compensation provided by this Act.''

1951—Act Oct. 24, 1951, ch. 554, §1(d), 65 Stat. 613, provided that: ''The limitations of $9,600 and $13,050 with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges, contained in the sixteenth paragraph under the head 'Miscellaneous salaries' in the Judiciary Appropriation Act, 1951 (Public Law 759, Eighty-first Congress), or in any subsequent appropriation Act, shall be increased by the

amounts necessary to pay the additional basic compensation provided by this Act.''

The particular paragraph of the ''Judiciary Appropriation Act, 1951 (Public Law 759, Eighty-first Congress)'', referred to above, is act Sept. 6, 1950, ch. 896, ch. III, title IV, § 401 (part), 64 Stat. 631. The salary limitations therein, also referred to above, were identical with those in the Judiciary Appropriation Act, 1952 (act Oct. 22, 1951, ch. 533, title IV, § 401 (part), 65 Stat. 596).

INCREASES IN COMPENSATION RATES

Increases in rates of basic compensation fixed pursuant to subsec. (a)(5) of this section, see notes under section 603 of this title.

TRAVEL AND SUBSISTENCE EXPENSES

Pub. L. 87–139, § 6, Aug. 14, 1961, 75 Stat. 340, provided that: ''The Director of the Administrative Office of the United States Courts shall promulgate, in accordance with section 604(a)(7) and section 456 of title 28 of the United States Code, such regulations as he may deem necessary to effectuate the increases provided by this Act [amending section 553 of this title, former Title 5, Executive Departments and Government Officers and Employees, and sections 237*o*, 287q, and 1471 of Title 22, Foreign Relations and Intercourse].''

CROSS REFERENCES

Classification and General Schedule pay rates, see sections 5101 et seq., 5331 et seq. of Title 5, Government Organization and Employees.

Duties of Supreme Court Marshal, see section 672 of this title.

Expenses of judges and United States attorneys, see sections 456, 460, 549, and 566 of this title.

Office expenses of clerks of court, see section 961 and 963 of this title.

Overtime pay, see section 5541 et seq. of Title 5, Government Organization and Employees.

Supreme Court officers and employees, compensation and disbursement, see section 671 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 374, 602, 1871 of this title; title 18 sections 3155, 3611, 3612.

§ 605. Budget estimates

The Director, under the supervision of the Judicial Conference of the United States, shall submit to the Office of Management and Budget annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the courts and the Administrative Office and the operation of the judicial survivors annuity fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law. The Director shall cause periodic examinations of the judicial survivors annuity fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose, and whose findings and recommendations shall be transmitted by the Director to the Judicial Conference.

Such estimates shall be approved, before presentation to the Office of Management and Budget, by the Judicial Conference of the United States, except that the estimate with respect to the Court of International Trade shall be approved by such court and the estimate with respect to the United States Court of Appeals for the Federal Circuit shall be approved by such court.

(June 25, 1948, ch. 646, 62 Stat. 915; July 9, 1956, ch. 517, § 1(e), 70 Stat. 497; Aug. 3, 1956, ch. 944, § 4, 70 Stat. 1026; Pub. L. 87–253, § 3, Sept. 19, 1961, 75 Stat. 521; Pub. L. 96–417, title V, § 501(14), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97–164, title I, § 119(a), Apr. 2, 1982, 96 Stat. 33; Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, 1085.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 447 (Mar. 3, 1911, ch. 231, § 305, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains provisions of section 447 of title 28, U.S.C., 1940 ed., relating to budget estimates. The remainder of said section 447 is incorporated in section 604 of this title.

The designation ''senior circuit judges'' was changed to ''chief judges of the circuits'' in conformity with section 45 of this title.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1982—Pub. L. 97–258 struck out paragraph which had provided that budget estimates be included in the budget without revision, but subject to the recommendations of the Bureau of the Budget, as provided by section 11 of Title 31 for the estimates of the Supreme Court. See section 1105(b) of Title 31, Money and Finance.

Pub. L. 97–164 substituted ''Office of Management and Budget'' for ''Bureau of the Budget'' wherever appearing and inserted requirement that the estimate of the expenditures and appropriations necessary for the maintenance and operation of the United States Court of Appeals for the Federal Circuit be approved by such court.

1980—Pub. L. 96–417 redesignated the Customs Court as the Court of International Trade.

1961—Pub. L. 87–253 struck out from second paragraph the requirement that the estimate with respect to the Court of Customs and Patent Appeals be approved by such court.

1956—Act Aug. 3, 1956, inserted provision to authorize the Director to include in the budget estimates of the courts the expenditures and appropriations necessary for the operation of the judicial survivors annuity fund, and inserted provision that Director shall cause periodic actuarial examinations to be made of the judicial survivors annuity fund and shall report the actuary's findings and recommendations to the Judicial Conference.

Act July 9, 1956, struck out ''and the Court of Claims'' after ''the Customs Court'' and substituted ''and'' for the comma after ''the Court of Customs and Patents Appeals'' in second par.

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 1980 AMENDMENT

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 3006A.

§ 606. Duties of Deputy Director

The Deputy Director shall perform the duties assigned to him by the Director, and shall act as

Director during the absence or incapacity of the Director or when the Director's office is vacant.

(June 25, 1948, ch. 646, 62 Stat. 915; Pub. L. 86–370, § 5(a)(1), Sept. 23, 1959, 73 Stat. 652.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 444 (Mar. 3, 1911, ch. 231, § 302, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains provisions as to duties of Assistant Director in section 444 of title 28, U.S.C., 1940 ed. The remainder of said section 444 is incorporated in sections 601, 603 and 608 of this title.

AMENDMENTS

1959—Pub. L. 86–370 substituted ''Deputy Director'' for ''Assistant Director''.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–370 effective Sept. 23, 1959, see section 7(a) of Pub. L. 86–370.

REFERENCE TO ASSISTANT DIRECTOR DEEMED REFERENCE TO DEPUTY DIRECTOR

References in any other law to Assistant Director of the Administrative Office of the United States Courts deemed to be reference to the Deputy Director of the Administrative Office of the United States Courts, see note set out under section 601 of this title.

§ 607. Practice of law prohibited

An officer or employee of the Administrative Office shall not engage directly or indirectly in the practice of law in any court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 915.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 445 (Mar. 3, 1911, ch. 231, § 303, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains the last paragraph of title 28, U.S.C., 1940 ed., § 445. The remainder of said section is incorporated in sections 602 and 603 of this title.

Changes were made in phraseology.

§ 608. Seal

The Director shall use a seal approved by the Supreme Court. Judicial notice shall be taken of such seal.

(June 25, 1948, ch. 646, 62 Stat. 915.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 444 (Mar. 3, 1911, ch. 231, § 302, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains a part of section 444 of title 28, U.S.C., 1940 ed. The remainder of said section 444 is incorporated in sections 601, 603 and 606 of this title.

Changes were made in phraseology.

§ 609. Courts' appointive power unaffected

The authority of the courts to appoint their own administrative or clerical personnel shall not be limited by any provisions of this chapter.

(June 25, 1948, ch. 646, 62 Stat. 915.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed. § 446 (Mar. 3, 1911, ch. 231, § 304, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains the last clause of section 446(1) of title 28, U.S.C., 1940 ed.

A similar provision with respect to the Attorney General's authority over United States attorneys and their assistants, and United States marshals and their deputies was omitted as unnecessary since there is nothing in this chapter that could affect such authority of the Attorney General.

For other provisions of section 446 of title 28, U.S.C., 1940 ed., see section 604 of this title.

Minor changes were made in phraseology.

§ 610. Courts defined

As used in this chapter the word ''courts'' includes the courts of appeals and district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Federal Claims, and the Court of International Trade.

(June 25, 1948, ch. 646, 62 Stat. 915; Oct. 31, 1951, ch. 655, § 44, 65 Stat. 725; Pub. L. 85–508, § 12(e), July 7, 1958, 72 Stat. 348; Pub. L. 95–598, title II, § 226, Nov. 6, 1978, 92 Stat. 2665; Pub. L. 96–417, title V, § 501(15), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 97–164, title I, § 120(a), Apr. 2, 1982, 96 Stat. 33; Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 450 (Mar. 3, 1911, ch. 231, § 308, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

Words ''and the United States Court for China'' were omitted. See reviser's note under section 411 of this title.

Provisions making this chapter and sections 332 and 333 of this title expressly applicable to the Court of Appeals for the District of Columbia were omitted as covered by ''courts of appeals.'' (See section 41 of this title and reviser's notes under such section and section 44 of this title.)

A definition of ''continental United States'' as ''the States of the Union and the District of Columbia'' is omitted as unnecessary. (See reviser's note under section 333 of this title.)

The term ''district courts in the United States'' in this section includes the District Court for the District of Columbia. (See section 88 of this title.)

Other provisions of section 450 of title 28, U.S.C., 1940 ed., are incorporated in sections 333 and 604 of this title.

The phrase ''all other courts of the United States established by Act of Congress'' was added to provide for future growth of the Federal judicial system. [See Senate Revision Amendment below.]

Changes in arrangement and phraseology were made.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Pub. L. 97–164 substituted ''the United States Claims Court'' for ''the Court of Claims, the Court of Customs and Patent Appeals''.

1980—Pub. L. 96–417 redesignated the Customs Court as the Court of International Trade.

1978—Pub. L. 95–598 directed the amendment of section by substituting '', district courts, and bankruptcy courts'' for ''and district 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.

1958—Pub. L. 85–508 struck out provisions which included District Court for Territory of Alaska within definition of court. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1951—Act Oct. 31, 1951, inserted reference to the District Court of Guam.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

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 1980 AMENDMENT

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of this title.

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.

TERMINATION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF THE CANAL ZONE

For termination of the United States District Court for the District of the Canal Zone at end of the ''transition period'', being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96–70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 963, 1631 of this title; title 5 sections 5584, 5595, 5596, 8331, 8347, 8402.

§611. Retirement of Director

(a) The Director may, by written election filed with the Chief Justice of the United States within 6 months after the date on which he takes office, waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and bring himself within the purview of this section. A Director who elects coverage under this section shall be deemed an ''employee'' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84. Waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director, upon separation from service other than by retirement, such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.

(b) Upon the retirement of a Director who has elected coverage under this section and who has served at least fifteen years and attained the age of sixty-five years the Administrative Office of the United States Courts shall pay him an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement.

Upon the retirement of a Director who has elected coverage under this section and who has served at least ten years, but who is not eligible to receive an annuity under the first paragraph of this subsection, the Administrative Office of the United States Courts shall pay him an annuity for life equal to that proportion of 80 per centum of the salary of the office at the time of his retirement that the number of years of his service bears to fifteen, reduced by one-quarter of 1 per centum for each full month, if any, he is under the age of sixty-five at the time of separation from service.

(c) A Director who has elected coverage under this section and who becomes permanently disabled to perform the duties of his office shall be retired and shall receive an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement if he has served at least fifteen years, or equal to that proportion of 80 percentum of such salary that the aggregate number of years of his service bears to fifteen if he has served less than fifteen years, but in no event less than 50 per centum of such salary.

(d) For the purpose of this section, ''service'' means service, whether or not continuous, as Director of the Administrative Office of the United States Courts, and any service, not to exceed five years, as a judge of the United States, a Senator or Representative in Congress, or a civilian official appointed by the President, by and with the advice and consent of the Senate.

(e) Each annuity payable under this section shall be increased by the same percentage amount and effective on the same date as annuities payable under chapter 83 of title 5, are increased as provided by section 8340 of title 5.

(Added Pub. L. 90–219, title II, §201(a), Dec. 20, 1967, 81 Stat. 668; amended Pub. L. 100–702, title X, §§1004(a), 1006(a)(1), Nov. 19, 1988, 102 Stat. 4665, 4666.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–702, §1006(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Director may, by written election filed with the Chief Justice of the United States within six months after the date on which he takes office, waive coverage under subchapter III (relating to civil service retirement) of chapter 83, Title 5, United States Code, and bring himself within the purview of this section. Such waiver and election shall not operate to foreclose to the Director, upon separation from service other than by retirement, such opportunity as the law may provide to secure civil service retirement credit for service as Director by depositing with interest the amount required by section 8334 of title 5, United States Code.''

Subsec. (e). Pub. L. 100–702, §1004(a), added subsec. (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1004(b) of title X of Pub. L. 100–702 provided that: ''The amendments made by this section [amending this section and section 627 of this title] shall apply to cost-of-living increases that go into effect on or after the date of enactment of this title [Nov. 19, 1988] with respect to any annuity being paid or becoming payable on or after such date.''

Section 1006(b) of title X of Pub. L. 100–702 provided that: ''The amendments made by this section [amending this section and section 627 of this title] shall apply to persons holding the offices of Director of the Administrative Office of the United States Courts, Director of the Federal Judicial Center, and Administrative Assistant to the Chief Justice on the date of enactment of this title [Nov. 19, 1988].''

RETROACTIVE EFFECT

Section 205 of Pub. L. 90–219 provided that:

''(a) Except as provided in subsection (b), the amendments made by this title [enacting this section and amending sections 376 and 604 of this title], insofar as they relate to retirement and survivorship benefits of the Director of the Administrative Office of the United States Courts, shall be applicable only with respect to persons first appointed to such office after the date of enactment of this Act [Dec. 20, 1967].

''(b) The provisions of section 611(a), the first paragraph of section 611(b), and section 376(s), of title 28, United States Code, as added by such amendments, shall be applicable to a Director or former Director of the Administrative Office of the United States Courts who was first appointed prior to the date of enactment of this Act [Dec. 20, 1967] if at the time such Director or former Director left or leaves such office he had, or shall have, attained the age of sixty-five years and completed fifteen years of service as Director of the Administrative Office of the United States Courts and if, on or before the expiration of six months following the date of enactment of this Act [Dec. 20, 1967], he makes the election referred to in section 611(a) or section 376(s), or both, as the case may be.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 376, 677 of this title.

§ 612. Judiciary Information Technology Fund

(a) ESTABLISHMENT AND AVAILABILITY OF FUND.—There is hereby established in the Treasury of the United States a special fund to be known as the ''Judiciary Information Technology Fund'' (hereafter in this section referred to as the ''Fund''). Moneys in the Fund shall be available to the Director without fiscal year limitation for the procurement (by lease, purchase, exchange, transfer, or otherwise) of information technology equipment for program activities included in the courts of appeals, district courts, and other judicial services account of the judicial branch of the United States. The Fund shall also be available for expenses, including personal services, support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of information technology equipment purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their information technology needs in accordance with subsections (b) and (c)(2).

(b) PLAN FOR MEETING INFORMATION TECHNOLOGY NEEDS.—

(1) DEVELOPMENT OF PLAN.—The Director shall develop and annually revise, with the approval of the Judicial Conference of the United States, a long range plan for meeting the information technology equipment needs of the activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133). Such plan and revisions shall be submitted to Congress.

(2) EXPENDITURES CONSISTENT WITH PLAN.—The Director may use amounts in the Fund to procure information technology equipment for the activities funded under subsection (a) only in accordance with the plan developed under paragraph (1).

(c) DEPOSITS INTO FUND.—

(1) DEPOSITS.—There shall be deposited in the Fund—

(A) all proceeds resulting from activities conducted under subsection (a), including net proceeds of disposal of excess or surplus property, all fees collected after the date of the enactment of the Judicial Amendments Act of 1994 by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133) and receipts from carriers and others for loss of or damage to property;

(B) amounts available for activities described in subsection (a) from funds appropriated to the judiciary; and

(C) any advances and reimbursements required by paragraph (2).

(2) ADVANCES AND REIMBURSEMENTS.—Whenever the Director procures information technology equipment for any entity in the judicial branch other than the courts or the Administrative Office, that entity shall advance or reimburse the Fund, whichever the Director considers appropriate, for the costs of the information technology equipment, from appropriations available to that entity.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund for any fiscal year such sums as are required to supplement amounts deposited under subsection (c) in order to conduct activities under subsection (a).

(e) CONTRACT AUTHORITY.—

(1) FOR EACH FISCAL YEAR.—In fiscal year 1990, and in each succeeding fiscal year, the Director may enter into contracts for the procurement of information technology equipment in amounts which, in the aggregate, do not exceed amounts estimated to be collected under subsection (c) for that fiscal year in advance of the availability of amounts in the Fund for such contracts.

(2) MULTIYEAR CONTRACTS.—In conducting activities under subsection (a), the Director is authorized to enter into multiyear contracts for information technology equipment for periods of not more than five years for any contract, if—

(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and for payment of any costs of cancellation or termination of the contract;

(B) such contract is awarded on a fully competitive basis; and

(C) the Director determines that—

(i) the need for the information technology equipment being provided will continue over the period of the contract; and

(ii) the use of the multi-year contract will yield substantial cost savings when compared with other methods of providing the necessary resources.

(3) CANCELLATION COSTS OF MULTIYEAR CONTRACT.—Any cancellation costs incurred with respect to a contract entered into under paragraph (2) shall be paid from currently available amounts in the Fund.

(f) APPLICABILITY OF PROCUREMENT STATUTE.—The procurement of information technology equipment under this section shall be conducted in compliance with the provisions of law, policies, and regulations applicable to executive agencies under division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.).

(g) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—Nothing in this section shall be construed to limit the authority of the Administrator of General Services under section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481).

(h) ANNUAL REPORT.—

(1) IN GENERAL.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of information technology equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

(2) ADDITIONAL CONTENTS OF REPORT.—The annual report submitted under this subsection shall include—

(A) the specific actions taken and the progress made to improve the plan developed under subsection (b) and the long range automation plan and strategic business plan developed under subsection (k); and

(B) a comparison of planned Fund expenditures and accomplishments with actual Fund expenditures and accomplishments, and the reasons for any delays in scheduled systems development, or budget overruns.

(3) REPORT IN YEAR OF TERMINATION OF AUTHORITY.—The annual report submitted under this subsection for any year in which the authority for this section is to terminate under subsection (m),[1] shall be submitted no later than 9 months before the date of such termination.

(i) REPROGRAMMING.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, may transfer amounts up to $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of $1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227).

(j) APPROPRIATIONS INTO THE FUND.—If the budget request of the Judiciary[2] is appropriated in full, the amount deposited into the Fund during any fiscal year under the authority of subparagraph (c)(1)(B) will be the same as the amount of funds requested by the Judiciary[2] for activities described in subsection (a). If an amount to be deposited is not specified in statute by Congress and if the full request is not appropriated, the amount to be deposited under (c)(1)(B)[3] will be set by the spending priorities established by the Judicial Conference.

(k) LONG RANGE MANAGEMENT AND BUSINESS PLANS.—The Director of the Administrative Office of the United States Court shall—

(1) develop an overall strategic business plan which would identify the judiciary's missions, goals, and objectives;

(2) develop a long range automation plan based on the strategic business plan and user needs assessments;

(3) establish effective Administrative Office oversight of court automation efforts to ensure the effective operation of existing systems and control over developments of future systems;

(4) expedite efforts to complete the development and implementation of life cycle management standards;

(5) utilize the standards in developing the next generation of case management and financial systems; and

(6) assess the current utilization and future user requirements of the data communications network.

(Added Pub. L. 101–162, title IV, §404(b)(1), Nov. 21, 1989, 103 Stat. 1013; amended Pub. L. 103–420, §2, Oct. 25, 1994, 108 Stat. 4343; Pub. L. 104–106, div. E, title LVI, §5602, Feb. 10, 1996, 110 Stat. 699; Pub. L. 104–208, div. A, title I, §101(a) [title III, §305], Sept. 30, 1996, 110 Stat. 3009, 3009–45; Pub. L. 105–85, div. A, title X, §1073(h)(2), Nov. 18, 1997, 111 Stat. 1907; Pub. L. 105–119, title III, §304, Nov. 26, 1997, 111 Stat. 2491.)

REFERENCES IN TEXT

Section 404 of Public Law 101–515, referred to in subsecs. (b)(1) and (c)(1)(A), was formerly set out as a Court Fees for Electronic Access to Information note under section 1913 of this title.

The date of the enactment of the Judicial Amendments Act of 1994, referred to in subsec. (c)(1)(A), is the date of enactment of Pub. L. 103–420, which was approved Oct. 25, 1994.

The Clinger-Cohen Act of 1996, referred to in subsec. (f), is div. D (§§4001–4402) and div. E (§§5001–5703) of Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 642, 679. Div. E of Pub. L. 104–106 is classified principally to chapter 25 (§1401 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of Title 40, Short Title of 1996 Amendment note set out under section 251 of Title 41, Public Contracts, and Tables.

Subsection (m), referred to in subsec. (h)(3), was redesignated subsec. (*l*) of this section by Pub. L. 104–106, div. E, title LVI, §5602(a)(4), Feb. 10, 1996, 110 Stat. 699, and subsequently repealed by Pub. L. 105–119, title III, §304, Nov. 26, 1997, 111 Stat. 2491.

[1] See References in Text note below.

[2] So in original. Probably should not be capitalized.

[3] So in original. Probably should be "subparagraph (c)(1)(B)".

Section 606 of Public Law 100–459, referred to in subsec. (i), is section 606 of Pub. L. 100–459, title VI, Oct. 1, 1988, 102 Stat. 2227, which is not classified to the Code.

AMENDMENTS

1997—Subsec. (f). Pub. L. 105–85 substituted ''division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)'' for ''the Information Technology Management Reform Act of 1996''.

Subsec. (*l*). Pub. L. 105–119 struck out subsec. (*l*) which read as follows:

''(*l*) TERMINATION OF AUTHORITY.—The Fund, and the authorities conferred by this section, terminate on September 30, 1998. All unobligated amounts remaining in the Fund on that date shall be deposited into the fund established under section 1931 of this title to be used to reimburse other appropriations.''

1996—Pub. L. 104–106, § 5602(b)(1), substituted ''Information Technology Fund'' for ''Automation Fund'' in section catchline.

Subsec. (a). Pub. L. 104–106, § 5602(b)(3), substituted ''information technology'' for ''automatic data processing'' wherever appearing.

Pub. L. 104–106, § 5602(b)(2), substituted ''Information Technology Fund'' for ''Automation Fund''.

Subsecs. (b), (c)(2), (e). Pub. L. 104–106, § 5602(b)(3), substituted ''information technology'' for ''automatic data processing'' wherever appearing.

Subsec. (f). Pub. L. 104–106, § 5602(b)(3), substituted ''information technology'' for ''automatic data processing''.

Pub. L. 104–106, § 5602(a)(1), substituted ''the provisions of law, policies, and regulations applicable to executive agencies under the Information Technology Management Reform Act of 1996'' for ''section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)''.

Subsec. (g). Pub. L. 104–106, § 5602(a)(2), substituted ''section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)'' for ''sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759)''.

Subsec. (h)(1). Pub. L. 104–106, § 5602(b)(3), substituted ''information technology'' for ''automatic data processing''.

Subsec. (*l*). Pub. L. 104–208, § 101(a) [title III, § 305], substituted ''September 30, 1998'' for ''September 30, 1997''.

Pub. L. 104–106, § 5602(a)(3), (4), redesignated subsec. (m) as (*l*) and struck out former subsec. (*l*) which read as follows:

''(*l*) DEFINITION.—For purposes of this section, the term 'automatic data processing equipment' has the meaning given that term in section 111(a)(2)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)(A)).''

Subsec. (m). Pub. L. 104–106, § 5602(a)(3), redesignated subsec. (m) as (*l*).

1994—Subsec. (a). Pub. L. 103–429, § 2(1), inserted ''program activities included in the courts of appeals, district courts, and other judicial services account of'' after ''equipment for'' and substituted '', support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2)'' for ''and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment in the judicial branch''.

Subsec. (b)(1). Pub. L. 103–420, § 2(2), substituted ''activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)'' for ''judicial branch''.

Subsec. (b)(2). Pub. L. 103–420, § 2(3), substituted ''activities funded under subsection (a)'' for ''judicial branch of the United States''.

Subsec. (c)(1)(A). Pub. L. 103–420, § 2(4), inserted '', all fees collected after the date of the enactment of the Judicial Amendments Act of 1994 by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)'' after ''surplus property''.

Subsec. (e)(1). Pub. L. 103–420, § 2(5), struck out ''(A)'' before ''In fiscal year 1990'' and substituted ''amounts estimated to be collected under subsection (c) for that fiscal year'' for ''$75,000,000''.

Subsec. (h). Pub. L. 103–420, § 2(6), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''ANNUAL REPORT.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).''

Subsec. (i). Pub. L. 103–420, § 2(7), substituted ''may transfer amounts up to $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of $1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227)'' for ''and upon notification to the Committees on Appropriations of the House of Representatives and the Senate, may use amounts deposited into the Fund under subparagraph (c)(1)(B) for purposes other than those established in subsection (a) only by following reprogramming procedures in compliance with provisions set forth in section 606 of Public Law 100–459.''

Subsec. (j). Pub. L. 103–420, § 2(8), substituted ''not specified in statute by Congress'' for ''not specified by Congress'' in second sentence.

Subsec. (k). Pub. L. 103–420, § 2(9), added subsec. (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 103–420, § 2(9), redesignated subsec. (k) as (*l*). Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 103–420, § 2(9), (10), redesignated subsec. (*l*) as (m) and substituted ''September 30, 1997'' for ''September 30, 1994'' and ''fund established under section 1931 of this title'' for '''Judicial Services Account''''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, set out as an Effective Date note under section 1401 of Title 40, Public Buildings, Property, and Works.

CHAPTER 42—FEDERAL JUDICIAL CENTER

Sec.
620. Federal Judicial Center.
621. Board; composition, tenure of members, compensation.
622. Meetings; conduct of business.
623. Duties of the Board.
624. Powers of the Board.
625. Director and staff.
626. Compensation of the Director and Deputy Director.
627. Retirement; employee benefits.
628. Appropriations and accounting.
629. Federal Judicial Center Foundation.

AMENDMENTS

1988—Pub. L. 100–702, title III, §§ 301(b), 304(b)(2), Nov. 19, 1988, 102 Stat. 4647, 4648, inserted ''and Deputy Director'' after ''Director'' in item 626 and added item 629.

1978—Pub. L. 95–598, title II, § 230(2), Nov. 6, 1978, 92 Stat. 2665, struck out item 629 ''Organizational provisions''.

1967—Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 664, added chapter 42 and items 620 to 629.

§ 620. Federal Judicial Center

(a) There is established within the judicial branch of the Government a Federal Judicial Center, whose purpose it shall be to further the development and adoption of improved judicial administration in the courts of the United States.

(b) The Center shall have the following functions:

(1) to conduct research and study of the operation of the courts of the United States, and to stimulate and coordinate such research and study on the part of other public and private persons and agencies;

(2) to develop and present for consideration by the Judicial Conference of the United States recommendations for improvement of the administration and management of the courts of the United States;

(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government and other persons whose participation in such programs would improve the operation of the judicial branch, including, but not limited to, judges, United States magistrates, clerks of court, probation officers, and persons serving as mediators and arbitrators;

(4) insofar as may be consistent with the performance of the other functions set forth in this section, to provide staff, research, and planning assistance to the Judicial Conference of the United States and its committees;

(5) Insofar[1] as may be consistent with the performance of the other functions set forth in this section, to cooperate with the State Justice Institute in the establishment and coordination of research and programs concerning the administration of justice; and

(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 664; amended Pub. L. 95–598, title II, § 227, Nov. 6, 1978, 92 Stat. 2665; Pub. L. 98–620, title II, § 214, Nov. 8, 1984, 98 Stat. 3346; Pub. L. 99–336, § 6(b), June 19, 1986, 100 Stat. 639; Pub. L. 100–702, title III, § 303, Nov. 19, 1988, 102 Stat. 4648; Pub. L. 102–572, title VI, § 602(a), Oct. 29, 1992, 106 Stat. 4514.)

AMENDMENTS

1992—Subsec. (b)(6). Pub. L. 102–572 added par. (6).

1988—Subsec. (b)(3). Pub. L. 100–702 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government, including, but not limited to, judges, clerks of court, probation officers, and United States magistrates;''.

1986—Subsec. (b)(3). Pub. L. 99–336 struck out ''referees,'' after ''judges,'' and substituted ''magistrates'' for ''commissioners''.

1984—Subsec. (b)(5). Pub. L. 98–620 added par. (5).

1978—Subsec. (b)(3). Pub. L. 95–598 directed the amendment of par. (3) by striking out ''referees,'' and by substituting ''magistrates'' for ''commissioners'', 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.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102–572, set out as a note under section 905 of Title 2, The Congress.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 6(c) of Pub. L. 99–336 provided that: ''The amendments made by this section [amending this section and section 288d of Title 2, The Congress, and redesignating sections 1364 to 1366 of this title] shall take effect on the date of the enactment of this Act [June 19, 1986].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 effective Oct. 1, 1985, see section 216 of Pub. L. 98–620, set out as a note under section 10701 of Title 42, The Public Health and Welfare.

STUDY OF INTERCIRCUIT CONFLICTS AND STRUCTURAL ALTERNATIVES FOR COURTS OF APPEALS BY FEDERAL JUDICIAL CENTER

Pub. L. 101–650, title III, § 302, Dec. 1, 1990, 104 Stat. 5104, as amended by Pub. L. 102–572, title V, § 502(c), Oct. 29, 1992, 106 Stat. 4513, directed Board of the Federal Judicial Center to conduct study and submit report to Congress by Jan. 1, 1992, on number and frequency of conflicts among judicial circuits in interpreting law that remain unresolved because they are not heard by the Supreme Court, and further directed Board to study full range of structural alternatives for Federal Courts of Appeals and submit report on the study to Congress and Judicial Conference of the United States, no later than 2 years and 9 months after Dec. 1, 1990.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 14001.

§ 621. Board; composition, tenure of members, compensation

(a) The activities of the Center shall be supervised by a Board to be composed of—

(1) the Chief Justice of the United States, who shall be the permanent Chairman of the Board;

(2) two circuit judges, three district judges, one bankruptcy judge, and one magistrate judge, elected by vote of the members of the Judicial Conference of the United States, except that any circuit or district judge so elected may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title but shall not be a member of the Judicial Conference of the United States; and

(3) the Director of the Administrative Office of the United States Courts, who shall be a permanent member of the Board.

[1] So in original. Probably should not be capitalized.

(b) The term of office of each elected member of the Board shall be four years. A member elected to serve for an unexpired term arising by virtue of the death, disability, retirement pursuant to section 371(a) or section 372(a) of this title, or resignation of a member shall be elected only for such unexpired term.

(c) No member elected for a four-year term shall be eligible for reelection to the Board.

(d) Members of the Board shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 664; amended Pub. L. 95–598, title II, §§ 228, 229, Nov. 6, 1978, 92 Stat. 2665; Pub. L. 104–317, title VI, § 601(b), Oct. 19, 1996, 110 Stat. 3857.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–317, § 601(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''two active judges of the courts of appeals of the United States, three active judges of the district courts of the United States, one active judge of the bankruptcy courts of the United States elected by vote of the members of the Judicial Conference of the United States: *Provided, however*, That the judges so elected shall not be members of the Judicial Conference of the United States; and''.

Subsec. (b). Pub. L. 104–317, § 601(b)(2), substituted ''retirement pursuant to section 371(a) or section 372(a) of this title,'' for ''retirement,''.

1978—Subsec. (a)(2). Pub. L. 95–598, § 228, inserted reference to one active judge of the bankruptcy courts of the United States.

Subsec. (b). Pub. L. 95–598, § 229, struck out provisions requiring that section 629 of this title govern the terms of office of the first members elected to the Board.

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.

§ 622. Meetings; conduct of business

(a) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the Chairman, acting at his own discretion or pursuant to the petition of any four members.

(b) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the members present and voting.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 665.)

§ 623. Duties of the Board

(a) In its direction and supervision of the activities of the Federal Judicial Center, the Board shall—

(1) establish such policies and develop such programs for the Federal Judicial Center as will further achievement of its purpose and performance of its functions;

(2) formulate recommendations for improvements in the administration of the courts of the United States, in the training of the personnel of those courts, and in the management of their resources;

(3) submit to the Judicial Conference of the United States, at least one month in advance of its annual meeting, a report of the activities of the Center and such recommendations as the Board may propose for the consideration of the Conference;

(4) present to other government departments agencies, and instrumentalities whose programs or activities relate to the administration of justice in the courts of the United States the recommendations of the Center for the improvement of such programs or activities;

(5) study and determine ways in which automatic data processing and systems procedures may be applied to the administration of the courts of the United States, and include in the annual report required by paragraph (3) of this subsection details of the results of the studies and determinations made pursuant to this paragraph;

(6) consider and recommend to both public and private agencies aspects of the operation of the courts of the United States deemed worthy of special study; and

(7) conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States Government.

(b) The Board shall transmit to Congress and to the Attorney General of the United States copies of all reports and recommendations submitted to the Judicial Conference of the United States. The Board shall also keep the Committees on the Judiciary of the United States Senate and House of Representatives fully and currently informed with respect to the activities of the Center.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 665; amended Pub. L. 100–702, title III, § 302, Nov. 19, 1988, 102 Stat. 4648.)

AMENDMENTS

1988—Subsec. (a)(7). Pub. L. 100–702 added par. (7).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 629 of this title.

§ 624. Powers of the Board

The Board is authorized—

(1) to appoint and fix the duties of the Director and the Deputy Director of the Federal Judicial Center, who shall serve at the pleasure of the Board;

(2) to request from any department, agency, or independent instrumentality of the Government any information it deems necessary to the performance of the functions of the Federal Judicial Center set forth in this chapter, and each such department, agency, or instrumentality is directed to cooperate with the Board and, to the extent permitted by law, to furnish such information to the Center upon request of the Chairman or upon request of the Director when the Board has delegated this authority to him;

(3) to contract with and compensate government and private agencies or persons for re-

search projects and other services, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), and to delegate such contract authority to the Director of the Federal Judicial Center, who is hereby empowered to exercise such delegated authority.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 666; amended Pub. L. 100–702, title III, § 304(a), Nov. 19, 1988, 102 Stat. 4648.)

AMENDMENTS

1988—Par. (1). Pub. L. 100–702 inserted ''and the Deputy Director'' after ''Director''.

§ 625. Director and staff

(a) The Director shall supervise the activities of persons employed by the Center and perform other duties assigned to him by the Board.

(b) The Director shall appoint and fix the compensation of such additional professional personnel as the Board may deem necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates: *Provided, however*, That the compensation of any person appointed under this subsection shall not exceed the annual rate of basic pay of level V of the Executive Schedule pay rates, section 5316, title 5, United States Code: *And provided further*, That the salary of a reemployed annuitant under the Civil Servive[1] Retirement Act shall be adjusted pursuant to the provisions of section 8344, title 5, United States Code.

(c) The Director shall appoint and fix the compensation of such secretarial and clerical personnel as he may deem necessary, subject to the provisions of title 5, United States Code, governing appointments in competitive service without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(d) The Director may procure personal services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the highest rate payable under General Schedule pay rates, section 5332, title 5, United States Code. (e) The Director is authorized to incur necessary travel and other miscellaneous expenses incident to the operation of the Center.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 666; amended Pub. L. 102–572, title VI, § 602(b), Oct. 29, 1992, 106 Stat. 4514.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b), is set out under section 5332 of Title 5, Government Organization and Employees.

The Civil Service Retirement Act, referred to in subsec. (b), is act May 29, 1930, ch. 349, 46 Stat. 468, as amended by act July 31, 1956, ch. 804, § 401, 70 Stat. 743, which was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as subchapter III (§ 8331 et seq.) of chapter 83 of Title 5.

[1] So in original. Should be ''Service''.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–572 substituted ''competitive service without regard to'' for ''competitive service and''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Jan. 1, 1993, see section 1101(a) of Pub. L. 102–572, set out as a note under section 905 of Title 2, The Congress.

§ 626. Compensation of the Director and Deputy Director

The compensation of the Director of the Federal Judicial Center shall be the same as that of the Director of the Administrative Office of the United States Courts, and his appointment and salary shall not be subject to the provisions of title 5, United States Code, governing appointments in competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates: *Provided, however*, That any Director who is a justice or judge of the United States inactive or retired status shall serve without additional compensation. The compensation of the Deputy Director of the Federal Judicial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 666; amended Pub. L. 100–702, title III, § 304(b)(1), Nov. 19, 1988, 102 Stat. 4648.)

REFERENCES IN TEXT

The General Schedule, referred to in text, is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1988—Pub. L. 100–702 inserted ''and Deputy Director'' in section catchline and inserted at end of text ''The compensation of the Deputy Director of the Federal Judicial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 304(c) of Pub. L. 100–702 provided that: ''The amendment made by subsection (b) [amending this section] shall be effective for fiscal years beginning on or after October 1, 1988.''

§ 627. Retirement; employee benefits

(a) A Director of the Federal Judicial Center who attains the age of seventy years shall be retired from that office.

(b) The Director, Deputy Director, the professional staff, and the clerical and secretarial employees of the Federal Judicial Center shall be deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter

84 (relating to the Federal Employees' Retirement System), chapter 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code: *Provided, however*, That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within 6 months after the date on which he takes office, may waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and elect coverage under the retirement and disability provisions of this section. A Director who elects coverage under this section shall be deemed an ''employee'' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84: *And provided further*, That upon his nonretirement separation from the Federal Judicial Center, waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.

(c) Upon the retirement of a Director who has elected coverage under this section and who has served at least fifteen years and attained the age of sixty-five years the Director of the Administrative Office of the United States Courts shall pay him an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement.

Upon the retirement of a Director who has elected coverage under this section and who has served at least ten years, but who is not eligible to receive an annuity under the first paragraph of this subsection, the Administrative Office of the United States Courts shall pay him an annuity for life equal to that proportion of 80 per centum of the salary of the office at the time of his retirement that the number of years of his service bears to fifteen, reduced by one-quarter of 1 per centum for each full month, if any, he is under the age of sixty-five at the time of separation from service.

(d) A director who has elected coverage under this section and who becomes permanently disabled to perform the duties of his office shall be retired and shall receive an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement if he has served at least fifteen years, or equal to that proportion of 80 per centum of such salary that the aggregate number of years of his service bears to fifteen if he has served less than fifteen years, but in no event less than 50 per centum of such salary.

(e) For the purpose of this section, ''service'' means service, whether or not continuous, as Director of the Federal Judicial Center, and any service, not to exceed five years, as a judge of the United States, a Senator or Representative in Congress, or a civilian official appointed by the President, by and with the advice and consent of the Senate.

(f) Each annuity payable under this section shall be increased by the same percentage amount and effective on the same date as annuities payable under chapter 83 of title 5, are increased as provided by section 8340 of title 5.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 666; amended Pub. L. 100–702, title X, §§ 1004(a), 1006(a)(2), Nov. 19, 1988, 102 Stat. 4665, 4666; Pub. L. 104–317, title VI, § 604, Oct. 19, 1996, 110 Stat. 3857.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–317, in first sentence, inserted ''Deputy Director,'' before ''the professional staff'' and ''chapter 84 (relating to the Federal Employees' Retirement System),'' after ''(relating to civil service retirement),''.

1988—Subsec. (b). Pub. L. 100–702, § 1006(a)(2), amended provisions after ''*Provided, however*,'' generally. Prior to amendment, those provisions read as follows: ''That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within six months after the date on which he takes office, may waive coverage under subchapter III of chapter 83 of title 5, United States Code (relating to civil service retirement), and elect coverage under the retirement and disability provisions of this section: *And provided further*, That upon his non-retirement separation from the Federal Judicial Center, such waiver and election shall not operate to foreclose to the Director such opportunity as the law may provide to secure civil service retirement credit for service as Director by depositing with interest the amount required by section 8334 of title 5, United States Code.''

Subsec. (f). Pub. L. 100–702, § 1004(a), added subsec. (f).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1004(a) of Pub. L. 100–702 applicable to cost-of-living increases that go into effect on or after Nov. 19, 1988, with respect to any annuity being paid or becoming payable on or after such date, see section 1004(b) of Pub. L. 100–702, set out as a note under section 611 of this title.

Amendment by section 1006(a)(2) of Pub. L. 100–702 applicable to persons holding offices of Director of the Administrative Office of the United States Courts, Director of the Federal Judicial Center, and Administrative Assistant to the Chief Justice on Nov. 19, 1988, see section 1006(b) of Pub. L. 100–702, set out as a note under section 611 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 376 of this title.

§ 628. Appropriations and accounting

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter. The Administrative Office of the United States Courts shall provide accounting, disbursing, auditing, and other fiscal services for the Federal Judicial Center.

(Added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 667.)

§ 629. Federal Judicial Center Foundation

(a) There is established a private nonprofit corporation which shall be known as the Federal

Judicial Center Foundation (hereafter in this section referred to as the ''Foundation'') and which shall be incorporated in the District of Columbia. The purpose of the Foundation shall be to have sole authority to accept and receive gifts of real and personal property and services made for the purpose of aiding or facilitating the work of the Federal Judicial Center. The Foundation shall not accept conditional or otherwise restricted gifts, except gifts that are designated for the support of specific projects previously approved by the Board of the Center may be accepted. The Foundation shall have no authority to administer or otherwise determine the use of gifts accepted under this section.

(b) The business of the Foundation shall be conducted by a Board that shall have seven members, including a chairman. Three members, including the chairman, shall be appointed by the Chief Justice of the United States, two by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives. The term of office of each member of the Board shall be 5 years, except that the initial terms shall be 5 years for the chairman, one member appointed by the President Pro Tempore and one member appointed by the Speaker, 3 years for the other member appointed by the President Pro Tempore and the other member appointed by the Speaker, and two years for the two other members appointed by the Chief Justice. Members of the Board shall serve without compensation but, upon authorization of the Director of the Center, shall be reimbursed by the Federal Judicial Center for actual and necessary expenses incurred in the performance of their official duties. No person who is a Federal or State judge in regular active service or otherwise eligible to perform judicial duties shall be eligible for membership on the Board. The Center shall provide all administrative support and facilities necessary for the operation of the Board.

(c) The Federal Judicial Center is authorized to administer and use gifts received by the Foundation under this section. The gifts shall be used to further the goals of the Center as determined by the Board of the Center.

(d) Gifts of money and proceeds from sales of other property received as gifts shall be deposited in a separate fund in the Treasury of the United States and disbursed on the order of the Director of the Center, in accordance with policies established by the Board of the Center.

(e) The Board of the Foundation shall, not later than October 1 of each year, submit to the Committees on the Judiciary of the United States Senate and House of Representatives a report with respect to gifts received under this section during the preceding 12-month period, including the source of each such gift, the amount of each gift of cash or cash equivalent, and a description of any other gift. The Center shall include in its annual report of the activities of the Center under section 623(a)(3) a description of the purposes for which gifts were used during the year covered by the report.

(f) For the purpose of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

(Added Pub. L. 100–702, title III, § 301(a), Nov. 19, 1988, 102 Stat. 4646.)

PRIOR PROVISIONS

A prior section 629, added Pub. L. 90–219, title I, § 101, Dec. 20, 1967, 81 Stat. 667, related to organization provisions for the Board, prior to repeal by Pub. L. 95–598, title II, § 230(1), Nov. 6, 1978, 92 Stat. 2665, effective Nov. 6, 1978.

CHAPTER 43—UNITED STATES MAGISTRATES

Sec.
631. Appointment and tenure.
632. Character of service.
633. Determination of number, locations, and salaries of magistrates.
634. Compensation.
635. Expenses.
636. Jurisdiction, powers, and temporary assignment.
637. Training.
638. Dockets and forms; United States Code; seals.
639. Definitions.

AMENDMENTS

1972—Pub. L. 92–239, § 3, Mar. 1, 1972, 86 Stat. 47, substituted ''Jurisdiction, powers, and temporary assignment'' for ''Jurisdiction and powers'' in item 636.

1968—Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1108, substituted ''MAGISTRATES'' for ''COMMISSIONERS'' in chapter heading, and ''Character of service'' for ''Park commissioners; jurisdiction and powers; procedure'' in item 632, ''Determination of number, locations, and salaries of magistrates'' for ''Fees and expenses'' in item 633, ''Compensation'' for ''Salaries of park commissioners; disposition of fees'' in item 634, ''Expenses'' for ''Park commissioners; residence'' in item 635, ''Jurisdiction and powers'' for ''Accounts'' in item 636, ''Training'' for ''Oaths, acknowledgments, affidavits and depositions'' in item 637, ''Dockets and forms; United States Code; seals'' for ''Seals'' in item 638, and ''Definitions'' for ''Dockets and forms; United States Code'' in item 639.

1954—Act Aug. 13, 1954, ch. 728, § 1(c), 68 Stat. 704, inserted ''and expenses'' after ''Fees'' in item 633.

CROSS REFERENCES

Petty offenses, trial by magistrate judges, see section 3401 of Title 18, Crimes and Criminal Procedure.

Rules of procedure and practice for trials of cases before magistrate judges, and taking of appeals, see section 3402 of Title 18 and rules 1 and 54 of Title 18, Appendix.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 375 of this title; title 48 sections 1912, 1934.

§ 631. Appointment and tenure

(a) The judges of each United States district court and the district court of the Virgin Islands shall appoint United States magistrates in such numbers and to serve at such locations within the judicial district as the conference may determine under this chapter. In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court. Where there is more than one judge of a district court, the appointment, whether an original appointment or a reappointment, shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence,

then by the chief judge. Where the conference deems it desirable, a magistrate may be designated to serve in one or more districts adjoining the district for which he is appointed. Such a designation shall be made by the concurrence of a majority of the judges of each of the district courts involved and shall specify the duties to be performed by the magistrate in the adjoining district or districts.

(b) No individual may be appointed or reappointed to serve as a magistrate under this chapter unless:

(1) He has been for at least five years a member in good standing of the bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States, except that an individual who does not meet the bar membership requirements of this paragraph may be appointed and serve as a part-time magistrate if the appointing court or courts and the conference find that no qualified individual who is a member of the bar is available to serve at a specific location;

(2) He is determined by the appointing district court or courts to be competent to perform the duties of the office;

(3) In the case of an individual appointed to serve in a national park, he resides within the exterior boundaries of that park, or at some place reasonably adjacent thereto;

(4) He is not related by blood or marriage to a judge of the appointing court or courts at the time of his initial appointment; and

(5) He is selected pursuant to standards and procedures promulgated by the Judicial Conference of the United States. Such standards and procedures shall contain provision for public notice of all vacancies in magistrate positions and for the establishment by the district courts of merit selection panels, composed of residents of the individual judicial districts, to assist the courts in identifying and recommending persons who are best qualified to fill such positions.

(c) A magistrate may hold no other civil or military office or employment under the United States: *Provided, however*, That, with the approval of the conference, a part-time referee in bankruptcy or a clerk or deputy clerk of a court of the United States may be appointed and serve as a part-time United States magistrate, but the conference shall fix the aggregate amount of compensation to be received for performing the duties of part-time magistrate and part-time referee in bankruptcy, clerk or deputy clerk: *And provided further*, That retired officers and retired enlisted personnel of the Regular and Reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, members of the Reserve components of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and members of the Army National Guard of the United States, the Air National Guard of the United States, and the Naval Militia and of the National Guard of a State, territory, or the District of Columbia, except the National Guard disbursing officers who are on a full-time salary basis, may be appointed and serve as United States magistrates.

(d) Except as otherwise provided in sections 375 and 636(h) of this title, no individual may serve under this chapter after having attained the age of seventy years: *Provided, however*, That upon a majority vote of all the judges of the appointing court or courts, which is taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof, a magistrate who has attained the age of seventy years may continue to serve and may be reappointed under this chapter.

(e) The appointment of any individual as a full-time magistrate shall be for a term of eight years, and the appointment of any individuals as a part-time magistrate shall be for a term of four years, except that the term of a full-time or part-time magistrate appointed under subsection (k)[1] shall expire upon—

(1) the expiration of the absent magistrate's term,

(2) the reinstatement of the absent magistrate in regular service in office as a magistrate,

(3) the failure of the absent magistrate to make timely application under subsection (j)[1] of this section for reinstatement in regular service in office as a magistrate after discharge or release from military service,

(4) the death or resignation of the absent magistrate, or

(5) the removal from office of the absent magistrate pursuant to subsection (i) of this section,

whichever may first occur.

(f) Upon the expiration of his term, a magistrate may, by a majority vote of the judges of the appointing district court or courts and with the approval of the judicial council of the circuit, continue to perform the duties of his office until his successor is appointed, or for 180 days after the date of the expiration of the magistrate's term, whichever is earlier.

(g) Each individual appointed as a magistrate under this section shall take the oath or affirmation prescribed by section 453 of this title before performing the duties of his office.

(h) Each appointment made by a judge or judges of a district court shall be entered of record in such court, and notice of such appointment shall be given at once by the clerk of that court to the Director.

(i) Removal of a magistrate during the term for which he is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but a magistrate's office shall be terminated if the conference determines that the services performed by his office are no longer needed. Removal shall be by the judges of the district court for the judicial district in which the magistrate serves; where there is more than one judge of a district court, removal shall not occur unless a majority of all the judges of such court concur in the order of removal; and when there is a tie vote of the judges of the district court on the question of the removal or retention in office of a magistrate, then removal shall be only by a concurrence of a majority of all the judges of the council. In the case of a magistrate appointed under the third sentence of subsection (a) of this sec-

[1] See References in Text note below.

tion, removal shall not occur unless a majority of all the judges of the appointing district courts concur in the order of removal; and where there is a tie vote on the question of the removal or retention in office of a magistrate, then removal shall be only by a concurrence of a majority of all the judges of the council or councils. Before any order or removal shall be entered, a full specification of the charges shall be furnished to the magistrate, and he shall be accorded by the judge or judges of the removing court, courts, council, or councils an opportunity to be heard on the charges.

(j) Upon the grant by the appropriate district court or courts of a leave of absence to a magistrate entitled to such relief under chapter 43 of title 38, such court or courts may proceed to appoint, in the manner specified in subsection (a) of this section, another magistrate, qualified for appointment and service under subsections (b), (c), and (d) of this section, who shall serve for the period specified in subsection (e) of this section.

(k) A United States magistrate appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.

(June 25, 1948, ch. 646, 62 Stat. 915; May 24, 1949, ch. 139, §73, 63 Stat. 100; July 9, 1952, ch. 609, §1, 66 Stat. 509; July 25, 1956, ch. 722, 70 Stat. 642; Pub. L. 90–578, title I, §101, Oct. 17, 1968, 82 Stat. 1108; Pub. L. 94–520, §2, Oct. 17, 1976, 90 Stat. 2458; Pub. L. 95–598, title II, §231, Nov. 6, 1978, 92 Stat. 2665; Pub. L. 96–82, §3(a)–(d), Oct. 10, 1979, 93 Stat. 644, 645; Pub. L. 97–230, Aug. 6, 1982, 96 Stat. 255; Pub. L. 99–651, title II, §201(a)(1), Nov. 14, 1986, 100 Stat. 3646; Pub. L. 100–659, §5, Nov. 15, 1988, 102 Stat. 3918; Pub. L. 100–702, title X, §1003(a)(2), Nov. 19, 1988, 102 Stat. 4665; Pub. L. 101–45, title II, §104, June 30, 1989, 103 Stat. 122; Pub. L. 101–650, title III, §308(b), Dec. 1, 1990, 104 Stat. 5112; Pub. L. 103–353, §2(c), Oct. 13, 1994, 108 Stat. 3169.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§526 and 527, sections 27, 66, 80e, 100, 117e, 129, 172, 198e, 204e, 256d, 395e, 403c–5, 403h–5, 404c–5, and 408m of title 16, U.S.C., 1940 ed., Conservation, and section 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (May 27, 1894, ch. 72, §5, 28 Stat. 74; May 28, 1896, ch. 252, §§19, 20, 29 Stat. 184; Apr. 12, 1900, ch. 191, §34, 31 Stat. 84; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Jan. 7, 1913, ch. 6, 37 Stat. 648; Aug. 22, 1914, ch. 264, §6, 38 Stat. 700; June 30, 1916, ch. 197, §6, 39 Stat. 245; Aug. 21, 1916, ch. 368, §6, 39 Stat. 523; Mar. 2, 1917, ch. 145, §41, 39 Stat. 965; June 2, 1920, ch. 218, §§7, 8, 41 Stat. 733; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1412; Dec. 13, 1926, ch. 6, §1, 44 Stat. 919; Apr. 25, 1928, ch. 434, §6, 45 Stat. 460; Apr. 26, 1928, ch. 438, §6, 45 Stat. 464; Mar. 2, 1929, ch. 583, §6, 45 Stat. 1538; Apr. 19, 1930, ch. 200, §6, 46 Stat. 228; June 25, 1935, ch. 309, §1, 49 Stat. 422; Aug. 19, 1937, ch. 703, §5, 50 Stat. 702; Mar. 26, 1938, ch. 51, §2, 52 Stat. 118; June 25, 1938, ch. 684, §1, 52 Stat. 1164; June 28, 1938, ch. 778, §1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, §2, 54 Stat. 43; Mar. 6, 1942, ch. 150, §5, 56 Stat. 134; Mar. 6, 1942, ch. 151, §5, 56 Stat. 137; Apr. 29, 1942, ch. 264, §5, 56 Stat. 260; June 5, 1942, ch. 341, §5, 56 Stat. 318; Dec. 28, 1945, ch. 592, 59 Stat. 659, 660; Apr. 23, 1946, ch. 202, §1, 60 Stat. 119, 120).

Section consolidates section 526 and a portion of 527, both of title 28, U.S.C., 1940 ed., with provisions of sections 27, 66, 80e, 100, 117e, 129, 172, 198e, 204e, 256d, 395e, 403c–5, 403h–5, 404c–5 and 408m of title 16, U.S.C., 1940 ed., and provisions of section 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, relating to appointment of United States commissioners. For other provisions of said sections see Distribution Table.

Some of the provisions of section 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions were retained in that title.

The provision of sections 395e, 403c–5, 404c–5, and 408m of title 16, U.S.C., 1940 ed., for appointment of the Park Commissioner in the Hawaii National Park, Shenandoah National Park, Great Smoky Mountains National Park, Mammoth Cave National Park and Isle Royale National Park upon "the recommendation of the Secretary of the Interior" was omitted as inconsistent not only with other provisions of this title but with other statutes applicable to other national parks.

All such park commissioners are United States commissioners and the revision of these sections makes possible uniformity and consistency in administrative matters concerning such commissioners. (See, also, sections 604 and 634 of this title.)

Words "the Director of the Administrative Office of the United States Courts" were substituted for "Attorney General" in section 526 of title 28, U.S.C., 1940 ed., in view of the general supervision by the Director over clerks and commissioners under section 601 et seq. of this title.

See, also, section 751 of this title prohibiting clerks from receiving compensation in another capacity.

First sentence of subsection (b) was substituted for the provision in section 527 of title 28, U.S.C., 1940 ed., prohibiting specified persons from acting as commissioners.

Words "at such places in the district as may be designated by the district court," in section 526 of title 28, U.S.C., 1940 ed., were omitted as unnecessary.

A provision in section 526 of title 28, U.S.C., 1940 ed., that commissioners should have the same powers and duties as are conferred and imposed by law, was omitted as superfluous.

The phrase in sections 526 and 527 of title 16, U.S.C., 1940 ed., "except as provided in section 591" and section 591, the effect of which was to except Alaska from this section, were omitted as unnecessary. This revised section by its terms limits the section and chapter 43 of this title to commissioners appointed by a "district court," which includes the courts enumerated in chapter 5 of this title but not those of Alaska, Canal Zone, or Virgin Islands.

Sections from title 16, U.S.C., 1940 ed., contained no tenure provisions.

Changes in phraseology were made.

Prior residence requirement for national park commissioners in section 635.—Based on sections 1a and 403c–9 of title 16, U.S.C., 1940 ed., Conservation (Aug. 19, 1937, ch. 703, §8, 50 Stat. 702; June 28, 1938, ch. 778, §1, 52 Stat. 1213).

Section consolidates section 1a with part of section 403c–9 of title 16, U.S.C., 1940 ed., relating to residence of a national park commissioner.

The provisions of sections 1a and 403c–9 of title 16, U.S.C., 1940 ed., relating to designation by the Secretary of the Interior of some place of residence reasonably adjacent to the park was modified by making such designation subject to the approval of the appointing court.

SENATE REVISION AMENDMENT

By Senate amendment, "Big Bend" and "Crater Lake" were inserted in subsection (a) of this section, and section 158a of title 16, U.S.C., which was derived from act May 15, 1947, ch. 55, §1, 61 Stat. 91, accordingly became an additional source of this section, such Act being included in the schedule of repeals. See 80th Congress Senate Report No. 1559.

As finally enacted, act May 15, 1947, ch. 57, 61 Stat. 92, which amended section 403c–5 of title 16, U.S.C., became an additional source of this section and was accordingly included in the schedule of repeals by Senate amendment. See 80th Congress Senate Report No. 1559.

1949 ACT

This amendment conforms the language of section 631(b) to the provisions of section 35 of the Bankruptcy Act, as amended by the act of June 28, 1946 (§ 3, 60 Stat. 324), that full-time referees in bankruptcy may not be appointed United States Commissioners.

This amendment also removes an ambiguity from section 631(b) by making it clear that the Director of the Administrative Office of the United States Courts has power to establish maximum limits of compensation to be received for performing the combined offices of commissioner and clerk or deputy clerk. This was the intent of sections 631 and 751 of title 28. (See the fifteenth paragraph of the reviser's note to the latter section, H. Rept. No. 308, April 25, 1947, p. A90, to accompany H.R. 3214, 80th Cong.)

REFERENCES IN TEXT

Subsections (j) and (k) of this section, referred to in subsec. (e), probably mean subsecs. (j) and (k) prior to amendment by Pub. L. 103–353, § 2(c)(1), (2), Oct. 13, 1994, 108 Stat. 3169, which redesignated subsec. (k) as (j) and struck out former subsec. (j).

AMENDMENTS

1994—Subsec. (j). Pub. L. 103–353, § 2(c), redesignated subsec. (k) as (j), substituted ''chapter 43 of title 38'' for ''the terms of subsection (i) of this section'', and struck out former subsec. (j) which related to uncompensated leave of absence for magistrate inducted into the Armed Forces and reinstatement as magistrate in regular service.

Subsecs. (k), (*l*). Pub. L. 103–353, § 2(c)(2), redesignated subsecs. (k) and (*l*) as (j) and (k), respectively.

1990—Subsec. (f). Pub. L. 101–650 substituted ''180'' for ''60''.

1989—Subsec. (b)(1). Pub. L. 101–45 struck out ''and he is a member in good standing of the bar of the highest court of the State in which he is to serve, or, in the case of an individual appointed to serve—

''(A) in the District of Columbia, a member in good standing of the bar of the United States district court for the District of Columbia; or

''(B) in the Commonwealth of Puerto Rico, a member in good standing of the bar of the Supreme Court of Puerto Rico, and in the Virgin Islands of the United States, a member in good standing of the bar of the district court of the Virgin Islands;'' after ''Virgin Islands of the United States,'' and struck out ''the first sentence of'' before ''this paragraph''.

1988—Subsec. (e). Pub. L. 100–659 substituted ''(k)'' for ''(j)'' in introductory text, ''(j)'' for ''(i)'' in par. (3), and ''(i)'' for ''(h)'' in par. (5).

Subsec. (*l*). Pub. L. 100–702 added subsec. (*l*).

1986—Subsec. (d). Pub. L. 99–651 substituted ''Except as otherwise provided in sections 375 and 636(h) of this title, no'' for ''No'', and ''a majority'' for ''the unanimous'', and inserted ''which is taken upon the magistrate's attaining age seventy and upon each subsequent anniversary thereof,'' after ''courts,''.

1982—Subsec. (b)(1). Pub. L. 97–230 substituted ''He has been for at least five years a member in good standing of the bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States, and he is a member'' for ''He is, and has been for at least five years, a member''.

1979—Subsec. (a). Pub. L. 96–82, § 3(a), substituted ''Where the conference deems it desirable, a magistrate may be designated to serve in one or more districts adjoining the district for which he is appointed'' and ''Such a designation shall be made by the concurrence of a majority of the judges of each of the district courts involved and shall specify the duties to be performed by the magistrate in the adjoining district or districts'' for ''Where an area under the administration of the National Park Service, or the United States Fish and Wildlife Service, or any other Federal agency, extends into two or more judicial districts and it is deemed desirable by the conference that the territorial jurisdiction of a magistrate's appointment include the entirety of such area, the appointment or reappointment shall be made by the concurrence of a majority of all judges of the district courts of the judicial districts involved, and where there is no such concurrence by the concurrence of the chief judges of such district courts''.

Subsec. (b). Pub. L. 96–82, § 3(b), substituted ''appointed or reappointed to serve'' for ''appointed or serve'' in provisions preceding par. (1), inserted '', and has been for at least 5 years,'' after ''He is'' in provisions of par. (1) preceding subpar. (A), struck out subpar. (C) relating to service by members an good standing of the bar of the highest court of one of the two or more States where the area involved is under the administration of the National Park Service, the United States Fish and Wildlife Service, or any other Federal agency that extends to two or more States.

Subsec. (b)(5). Pub. L. 96–82, § 3(c), added par. (5).

Subsec. (f). Pub. L. 96–82, § 3(d)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsecs. (g) to (k). Pub. L. 96–82, § 3(d)(1), redesignated former subsecs. (f) to (j) as (g) to (k), respectively.

1978—Subsec. (c). Pub. L. 95–598 directed the amendment of subsec. (c) by substituting ''of the conference,'' for ''of the conference, a part-time referee in bankruptcy or'' and ''magistrate and'' for ''magistrate and part-time referee in bankruptcy,'', 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.

1976—Subsec. (a). Pub. L. 94–520, § 2(1), (2), inserted ''and the district court of the Virgin Islands'' after ''United States district court'', and provided that in the case of a magistrate appointed by the district court of the Virgin Islands, this chapter was to apply as though the appointing court were a United States District Court.

Subsec. (b). Pub. L. 94–520, § 2(3), provided that a magistrate appointed under this chapter to serve in the Virgin Islands, must be a member in good standing of the bar of the district court of the Virgin Islands.

1968—Pub. L. 90–578 revised provisions of this section generally as described for subsecs. (a) to (j) hereunder, substituting provisions for appointment and tenure of magistrates for appointment and tenure of commissioners.

Subsec. (a). Pub. L. 90–578 provided for determination of number of appointees by the conference, rather than by the district court, authorized the determination of location of service, omitted as superseded by existing provisions prior provisions for appointments for certain specified national parks, required appointments in a district court with more than one judge to be concurred in by majority of all the judges, and by the chief judge in absence of such concurrence, required such concurrence of judges of district courts or concurrence of chief judges in absence of such concurrence by the judges where appointments are for an area under administration of the National Park Service, or the United States Fish and Wildlife Service, or any other Federal agency, which extends into more than one judicial district which should be served in its entirety by one magistrate, and omitted last par. prescribing appointment record and notice. See subsec. (g) of this section.

Subsec. (b). Pub. L. 90–578 added subsec. (b). Prior provisions which were eliminated prohibited holding dual offices when the person held a civil or military office or employment under the United States or was employed by a Federal justice or judge, but such restriction was made inapplicable to a part-time referee in bankruptcy, or to a clerk or deputy clerk of a Federal court when approved by the Director and compensated in an aggregate amount fixed by the Director for performance of dual duties. See subsec. (c) of this section.

Subsec. (c). Pub. L. 90–578 incorporated provisions of former subsec. (b) of this section in provisions designated as subsec. (c), omitted express restriction

against holding dual offices when employed by a Federal justice or judge, provided for approval of the conference with respect to part-time service as a magistrate of part-time referee in bankruptcy or clerk or deputy clerk of a Federal court, formerly requiring approval of the Director as to service of clerk or deputy clerk of court as a commissioner, made former provisions as to aggregate amount of compensation for service as clerk or deputy clerk of court and commissioner applicable to part-time service as magistrate of part-time referee in bankruptcy, clerk and deputy clerk of court, and authorized appointment of retired military personnel, except National Guard disbursing officers who are on a full-time salary basis, as United States magistrates. Former subsec. (c) which provided for a four year term of office of commissioner unless sooner removed by the district court. See subsecs. (e) and (h) of this section.

Subsec. (d). Pub. L. 90–578 added subsec. (d).

Subsec. (e). Pub. L. 90–578 substituted provisions designated as subsec. (e) for term of office of eight and four years for full-time and part-time officers and for expiration of term of office for provisions of former subsec. (c) of this section for term of four years unless sooner removed by the district court.

Subsec. (f). Pub. L. 90–578 added subsec. (f).

Subsec. (g). Pub. L. 90–578 incorporated provisions of last par. of former subsec. (a) of this section in provisions designated as subsec. (g) and provided expressly for appointment by a judge or judges of a district court.

Subsecs. (h) to (j). Pub. L. 90–578 added subsecs. (h) to (j).

1956—Subsec. (a). Act July 25, 1956, provided for two United States Commissioners for the Cumberland Gap National Historical Park.

1952—Subsec. (a). Act July 9, 1952, provided for two United States Commissioners for the Great Smoky Mountains National Park, in place of one.

1949—Subsec. (b). Act May 24, 1949, amended second sentence generally. Prior to amendment, second sentence read as follows: ''This subsection shall not apply to a referee in bankruptcy nor shall it apply to a clerk or deputy clerk of a court of the United States whose appointment as commissioner is approved by the Director of the Administrative Office of the United States Courts.''

CHANGE OF NAME

Section 321 of Pub. L. 101–650 provided that: ''After the enactment of this Act [Dec. 1, 1990], each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge, and any reference to any United States magistrate or magistrate that is contained in title 28, United States Code, in any other Federal statute, or in any regulation of any department or agency of the United States in the executive branch that was issued before the enactment of this Act, shall be deemed to refer to a United States magistrate judge appointed under section 631 of title 28, United States Code.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as an Effective Date note under section 4301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–659 effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrates [now United States magistrate judges] who retire on or after Nov. 15, 1988, with exception for judges and magistrates retiring on or after July 31, 1987, see section 9 of Pub. L. 100–659, set out as an Effective Date note under section 377 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–651 effective Jan. 1, 1987, see section 203 of Pub. L. 99–651, set out as a note under section 155 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 3(g) of Pub. L. 96–82 provided that: ''The amendment made by subsection (c) of this section [amending this section] shall not take effect until 30 days after the meeting of the Judicial Conference of the United States next following the effective date of this Act [Oct. 10, 1979].'' [The meeting of the Judicial Conference took place on Mar. 5 and 6, 1980.]

EFFECTIVE DATE OF 1968 AMENDMENT

Section 403 of Pub. L. 90–578 provided that: ''Except as otherwise provided by sections 401 and 402 of this title [set out as Appointment of Magistrates and Applicable Law notes below], this Act [amending this chapter and sections 202, 3006A, 3041, 3043, 3045, 3060, 3102, 3116, 3184, 3191, 3195, 3401, 3402, 3569, and 3771 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under this section] shall take effect on the date of its enactment [Oct. 17, 1968].''

SHORT TITLE OF 1979 AMENDMENT

Section 1 of Pub. L. 96–82 provided: ''That this Act [amending this section, sections 604, 633, 634, 635, 636, and 1915 of this title, and section 3401 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under this section] may be cited as the 'Federal Magistrate Act of 1979'.''

SHORT TITLE

Section 1 of Pub. L. 90–578 provided: ''That this Act [amending this chapter and sections 202, 3006A, 3041, 3043, 3045, 3060, 3102, 3116, 3184, 3191, 3195, 3401, 3402, 3569, and 3771 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under this section] may be cited as the 'Federal Magistrates Act'.''

SEPARABILITY

Section 501 of Pub. L. 90–578 provided that: ''If any provision of this Act [amending this chapter and sections 202, 3006A, 3041, 3043, 3045, 3060, 3102, 3116, 3184, 3191, 3195, 3401, 3402, 3569, and 3771 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as notes under this section] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of its application to other persons and circumstances shall not be affected.''

DUE CONSIDERATION BY MERIT SELECTION PANELS OF WOMEN, BLACKS, HISPANICS, AND OTHER MINORITIES

Section 3(e) of Pub. L. 96–82 provided that: ''The merit selection panels established under section 631(b)(5) of title 28, United States Code, in recommending persons to the district court, shall give due consideration to all qualified individuals, especially such groups as women, blacks, Hispanics, and other minorities.''

MAGISTRATES SERVING PRIOR TO PROMULGATION OF MAGISTRATE SELECTION STANDARDS AND PROCEDURES BY JUDICIAL CONFERENCE; REAPPOINTMENT; CERTIFICATION AS QUALIFIED

Section 3(f) of Pub. L. 96–82 provided that: ''Magistrates [now United States magistrate judges] serving prior to the promulgation of magistrate selection standards and procedures by the Judicial Conference of the United States may only exercise the jurisdiction conferred under the amendment made by section 2 of this Act [enacting section 636(c) of this title] after having been reappointed under such standards and procedures or after having been certified as qualified to exercise such jurisdiction by the judicial council of the circuit in which the magistrate serves.''

JUDICIAL CONFERENCE STUDY OF THE FUTURE OF THE MAGISTRATE SYSTEM

Section 9 of Pub. L. 96–82 provided for a study by the Judicial Conference of the United States to begin within 90 days after the effective date of Pub. L. 96–82, which was approved Oct. 10, 1979, and to be completed and made available to Congress within 24 months thereafter respecting the future of the magistrate system.

AUTHORIZATION OF APPROPRIATIONS

Section 10 of Pub. L. 96–82 provided that: ''Such sums as may be necessary to carry out the purposes of this Act [see Short Title of 1979 Amendment note above] are hereby authorized to be appropriated for expenditure on or after October 1, 1979.''

APPOINTMENT OF MAGISTRATES

Section 401 of Pub. L. 90–578 provided that:

''(a) No individual may serve as a United States commissioner within any judicial district after the date on which a United States magistrate [now United States magistrate judge] assumes office in such judicial district.

''(b) An individual serving as a United States commissioner within any judicial district on the date of enactment of this Act [Oct. 17, 1968] who is a member in good standing of the bar of the highest court of any State may be appointed to the office of United States magistrate for an initial term, and may be reappointed to such office for successive terms, notwithstanding his failure to meet the bar membership qualification imposed by section 631(b)(1) of chapter 43, title 28, United States Code: *Provided, however*, That any appointment or reappointment of such an individual must be by unanimous vote of all the judges of the appointing district court or courts.''

APPLICABLE LAW

Section 402 of Pub. L. 90–578 provided that:

''(a) All provisions of law relating to the powers, duties, jurisdiction, functions, service, compensation, and facilities of United States commissioners, as such provisions existed on the day preceding the date of enactment of this Act [Oct. 17, 1968], shall continue in effect in each judicial district until but not on or after (1) the date on which the first United States magistrate [now United States magistrate judge] assumes office within such judicial district pursuant to section 631 of chapter 43, title 28, United States Code, as amended by this Act, or (2) the third anniversary of the date of enactment of this Act [Oct. 17, 1968], whichever date is earlier.

''(b) On and after the date on which the first United States magistrate assumes office within any judicial district pursuant to section 631 of chapter 43, title 28, United States Code, as amended by this Act, or the third anniversary of the date of enactment of this Act [Oct. 17, 1968], whichever date is earlier—

''(1) the provisions of chapter 43, title 28, United State Code, as amended by this Act [this chapter], shall be effective within such judicial district except as otherwise specifically provided by section 401(b) of this title [set out as Appointment of Magistrates note above]; and

''(2) within such judicial district every reference to a United States commissioner contained in any previously enacted statute of the United States (other than sections 8331(1)(E), 8332(i), 8701(a)(7), and 8901(1)(G) of title 5), any previously promulgated rule of any court of the United States, or any previously promulgated regulation of any executive department or agency of the United States, shall be deemed to be a reference to a United States magistrate duly appointed under section 631 of chapter 43, title 28, United States Code, as amended by this Act.

''(c) The administrative powers and duties of the Director of the Administrative Office of the United States Courts with respect to United States commissioners under the provisions of chapter 41, title 28, United States Code, as such provisions existed on the day preceding the date of enactment of this Act [Oct. 17, 1968], shall continue in effect until no United States commissioner remains in service.''

SPECIAL COMMISSIONER FOR GRAND CANYON NATIONAL PARK; APPOINTMENT; JURISDICTION; COMPENSATION

Pub. L. 86–258, Sept. 14, 1959, 73 Stat. 546, required the United States District Court for the District of Arizona to appoint a special commissioner for the Grand Canyon National Park, Arizona, and provided for the term, jurisdiction, and salary of the commissioner.

JURISDICTIONAL LIMITATION OF COMMISSIONER HOLDING OFFICE ON JULY 9, 1952

Section 2 of act July 9, 1952, provided that the jurisdiction of the United States commissioner for the Great Smoky Mountains National Park on July 9, 1952, would be limited to the portion of the park situated in North Carolina.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 372, 377, 604, 636, 751 of this title; title 5 section 8331.

§ 632. Character of service

(a) Full-time United States magistrates may not engage in the practice of law, and may not engage in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as judicial officers.

(b) Part-time United States magistrates shall render such service as judicial officers as is required by law. While so serving they may engage in the practice of law, but may not serve as counsel in any criminal action in any court of the United States, nor act in any capacity that is, under such regulations as the conference may establish, inconsistent with the proper discharge of their office. Within such restrictions, they may engage in any other business, occupation, or employment which is not inconsistent with the expeditious, proper, and impartial performance of their duties as judicial officers.

(June 25, 1948, ch. 646, 62 Stat. 916; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1110.)

AMENDMENTS

1968—Pub. L. 90–578 substituted provisions as to character of service of full-time and part-time United States magistrates for former provisions prescribing jurisdiction and powers of national park commissioners and practice and procedure before such officers. See section 636 of this title.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

§ 633. Determination of number, locations, and salaries of magistrates

(a) SURVEYS BY THE DIRECTOR.—

(1) The Director shall, within one year immediately following the date of the enactment of the Federal Magistrates Act, make a careful survey of conditions in judicial districts to determine (A) the number of appointments of full-time magistrates and part-time magistrates required to be made under this chapter to provide for the expeditious and effective administration of justice, (B) the locations at which such officers shall serve, and (C) their respective salaries under section 634 of this title. Thereafter, the Director shall, from time to time, make such surveys, general or local, as the conference shall deem expedient.

(2) In the course of any survey, the Director shall take into account local conditions in each judicial district, including the areas and the populations to be served, the transportation and communications facilities available, the amount and distribution of business of the type expected to arise before officers appointed under this chapter (including such matters as may be assigned under section 636(b) of this chapter), and any other material factors. The Director shall give consideration to suggestions from any interested parties, including district judges, United States commissioners or officers appointed under this chapter, United States attorneys, bar associations, and other parties having relevant experience or information.

(3) The surveys shall be made with a view toward creating and maintaining a system of full-time United States magistrates. However, should the Director find, as a result of any such surveys, areas in which the employment of a full-time magistrate would not be feasible or desirable, he shall recommend the appointment of part-time United States magistrates in such numbers and at such locations as may be required to permit prompt and efficient issuance of process and to permit individuals charged with criminal offenses against the United States to be brought before a judicial officer of the United States promptly after arrest.

(b) DETERMINATION BY THE CONFERENCE.—Upon the completion of the initial surveys required by subsection (a) of this section, the Director shall report to the district courts, the councils, and the conference his recommendations concerning the number of full-time magistrates and part-time magistrates, their respective locations, and the amount of their respective salaries under section 634 of this title. The district courts shall advise their respective councils, stating their recommendations and the reasons therefor; the councils shall advise the conference, stating their recommendations and the reasons therefor, and shall also report to the conference the recommendations of the district courts. The conference shall determine, in the light of the recommendations of the Director, the district courts, and the councils, the number of full-time United States magistrates and part-time United States magistrates, the locations at which they shall serve, and their respective salaries. Such determinations shall take effect in each judicial district at such time as the district court for such judicial district shall determine, but in no event later than one year after they are promulgated.

(c) CHANGES IN NUMBER, LOCATIONS, AND SALARIES.—Except as otherwise provided in this chapter, the conference may, from time to time, in the light of the recommendations of the Director, the district courts, and the councils, change the number, locations, and salaries of full-time and part-time magistrates, as the expeditious administration of justice may require.

(June 25, 1948, ch. 646, 62 Stat. 916; Aug. 13, 1954, ch. 728, § 1(a), (b), 68 Stat. 704; Pub. L. 85–276, §§ 1, 2, Sept. 2, 1957, 71 Stat. 600; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1111; Pub. L. 96–82, § 4, Oct. 10, 1979, 93 Stat. 645; Pub. L. 99–651, title II, § 202(d), Nov. 14, 1986, 100 Stat. 3648.)

REFERENCES IN TEXT

Date of the enactment of the Federal Magistrates Act, referred to in subsec. (a)(1), means Oct. 17, 1968, the date of enactment of Pub. L. 90–578.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–651 substituted ''section 634'' for ''section 643''.

1979—Subsec. (c). Pub. L. 96–82 struck out provision that determinations of the conference changing the number, locations, and salaries of full-time and part-time magistrates take effect sixty days after they are promulgated.

1968—Pub. L. 90–578 substituted provisions for determination of number, locations, and salaries of magistrates, comprising subsecs. (a) to (c) of this section, relating to: surveys by the Director; determination by the conference; and changes in number, locations, and salaries'', respectively, for prior provisions for fees and expenses of United States commissioners, prescribing in undesignated introductory provisions a $10,500 limitation for any one calendar year for certain enumerated services rendered, and in former subsec. (c) for actual and necessary office expenses, including compensation of a necessary clerical assistant, of United States commissioners performing full time duty in office and not engaged in practice of law, now covered in sections 634 and 635 of this title.

1957—Subsec. (a). Pub. L. 85–276, § 1, placed in subsec. (a) provisions of former subsec. (b) relating to limitation of compensation of commissioners and, among other charges, increased fees and compensation of commissioners.

Subsec. (b). Pub. L. 85–276, § 2, repealed subsec. (b) which limited compensation of commissioners.

1954—Act Aug. 13, 1954, inserted ''and expenses'' after ''Fees'' in section catchline.

Subsec. (c). Act Aug. 13, 1954, added subsec. (c).

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–651 effective Jan. 1, 1987, see section 203 of Pub. L. 99–651, set out as a note under section 155 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 634 of this title.

§ 634. Compensation

(a) Officers appointed under this chapter shall receive, as full compensation for their services,

salaries to be fixed by the conference pursuant to section 633, at rates for full-time United States magistrates up to an annual rate equal to 92 percent of the salary of a judge of the district court of the United States, as determined pursuant to section 135, and at rates for part-time magistrates of not less than an annual salary of $100, nor more than one-half the maximum salary payable to a full-time magistrate. In fixing the amount of salary to be paid to any officer appointed under this chapter, consideration shall be given to the average number and the nature of matters that have arisen during the immediately preceding period of five years, and that may be expected thereafter to arise, over which such officer would have jurisdiction and to such other factors as may be material. Disbursement of salaries shall be made by or pursuant to the order of the Director.

(b) Except as provided by section 8344, title 5, relating to reductions of the salaries of reemployed annuitants under subchapter III of chapter 83 of such title and unless the office has been terminated as provided in this chapter, the salary of a full-time United States magistrate shall not be reduced, during the term in which he is serving, below the salary fixed for him at the beginning of that term.

(c) All United States magistrates, effective upon their taking the oath or affirmation of office, and all necessary legal, clerical, and secretarial assistants employed in the offices of full-time United States magistrates shall be deemed to be officers and employees in the judicial branch of the United States Government within the meaning of subchapter III (relating to civil service retirement) of chapter 83, chapter 87 (relating to Federal employees' group life insurance), and chapter 89 (relating to Federal employees' health benefits program) of title 5. Part-time magistrates shall not be excluded from coverage under these chapters solely for lack of a prearranged regular tour of duty. A legal assistant 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. 917; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1112; Pub. L. 92–428, Sept. 21, 1972, 86 Stat. 721; Pub. L. 94–520, § 1, Oct. 17, 1976, 90 Stat. 2458; Pub. L. 95–598, title II, § 232, Nov. 6, 1978, 92 Stat. 2665; Pub. L. 96–82, § 8(b), Oct. 10, 1979, 93 Stat. 647; Pub. L. 98–353, title I, § 108(a), title II, § 210, July 10, 1984, 98 Stat. 342, 351; Pub. L. 100–202, § 101(a) [title IV, § 408(b)], Dec. 22, 1987, 101 Stat. 1329, 1329–27; Pub. L. 100–702, title X, § 1003(a)(4), Nov. 19, 1988, 102 Stat. 4665.)

HISTORICAL AND REVISION NOTES

Based on sections 29, 72, 74, 80h, 103, 104, 117h, 117j, 132, 132a, 133, 175, 176, 198h, 198j, 204h, 204j, 256f, 256h, 379, 380, 395h, 395j, 403c–9, 403c–11, 403h–7, 403h–9, 404c–7, 404c–9, 408*o*, and 408q of title 16, U.S.C., 1940 ed., Conservation (May 7, 1894, ch. 72, § 7, 28 Stat. 75; Apr. 17, 1900, ch. 192, § 1, 31 Stat. 133; Apr. 20, 1904, ch. 1400, §§ 9, 11, 33 Stat. 189; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 22, 1914, ch. 264, §§ 9, 11, 38 Stat. 701; June 30, 1916, ch. 197, §§ 9, 11, 39 Stat. 246; Aug. 21, 1916, ch. 368, §§ 9, 11, 39 Stat. 523, 524; June 2, 1920, ch. 218, §§ 11, 13, 41 Stat. 734; Mar. 4, 1923, ch. 295, 42 Stat. 1560; Apr. 25, 1928, ch. 434, §§ 9, 11, 45 Stat. 461; Apr. 26, 1928, ch. 438, §§ 9, 11, 45 Stat. 465; Mar. 2, 1929, ch. 583, §§ 9, 11, 45 Stat. 1539; Apr. 19, 1930, ch. 200, §§ 9, 11, 46 Stat. 229; June 25, 1935, ch. 309, §§ 2, 3, 49 Stat. 422; Aug. 19, 1937, ch. 703, §§ 9, 11, 50 Stat. 702, 703; June 25, 1938, ch. 684, § 2, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; Mar. 6, 1942, ch. 150, §§ 7, 9, 56 Stat. 135; Mar. 6, 1942, ch. 151, §§ 7, 9, 56 Stat. 137; Apr. 29, 1942, ch. 264, §§ 7, 9, 56 Stat. 260, 261; June 5, 1942, ch. 341, §§ 7, 9, 56 Stat. 319; Apr. 23, 1946, ch. 202, § 4, 60 Stat. 120; June 24, 1946, ch. 463, § 5, 60 Stat. 303).

Section consolidates provisions of sections 29, 72, 74, 80h, 103, 104, 117h, 117j, 132, 132a, 133, 175, 176, 198h, 198j, 204h, 204j, 256f, 256h, 379, 380, 395h, 395j, 403c–9, 403c–11, 403h–7, 403h–9, 404c–7, 404c–9, 408*o* and 408q of title 16, Conservation, relating to salary and fees of park commissioners with changes in arrangement and phraseology necessary to effect consolidation.

The provisions of some of these sections that the park commissioner should be "paid an annual salary, as appropriated for by Congress, payable quarterly" were rewritten upon advice of the Judicial Conference Committee on the Revision of the Judicial Code appointed by the Chief Justice of the United States, in order to place administration supervision of commissioners upon the district court and the Judicial Conference of the United States.

The provisions of some of these sections for deposit of fees, costs, expenses, fines, and penalties with the clerk of district court were rewritten to provide merely that he shall account for the same as public moneys.

The provisions of some of these sections with reference to salaries of the United States attorney and his assistants and the United States marshal and his deputies were omitted as covered by sections 508 [now 548] and 552 [see Prior Provisions note for that section] of this title.

SENATE REVISION AMENDMENT

As finally enacted, section 158d of title 16, U.S.C., which was derived from act May 15, 1947, ch. 55, § 4, 61 Stat. 91, 92, was an additional source of this section and was accordingly included by Senate amendment in the schedule of repeals. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–702 inserted at end "A legal assistant 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."

1987—Subsec. (a). Pub. L. 100–202 amended first sentence generally. Prior to amendment, first sentence read as follows: "Officers appointed under this chapter shall receive as full compensation for their services salaries to be fixed by the conference pursuant to section 633 of this title, at rates for full-time and part-time United States magistrates not to exceed rates determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361) as adjusted by section 461 of this title except that the salary of a part-time United States magistrate shall not be less than $100 nor more than one-half the maximum salary payable to a full-time magistrate."

1984—Subsec. (a). Pub. L. 98–353, § 108(a), substituted "rates determined under section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351–361) as adjusted by section 461 of this title" for "the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended,".

Subsec. (c). Pub. L. 98–353, § 210, substituted "subchapter III" for "subsection III".

1979—Subsec. (c). Pub. L. 96–82 inserted reference to legal assistants.

1978—Subsec. (a). Pub. L. 95–598 directed the amendment of subsec. (a) by substituting "not to exceed

$48,500 per annum, subject to adjustment in accordance with section 225 of the Federal Salary Act of 1967 and section 461 of this title,'' for ''for full-time and part-time United States magistrates not to exceed the rates now or hereafter provided for full-time and part-time referees in bankruptcy, respectively, referred to in section 40a of the Bankruptcy Act (11 U.S.C. 68(a)), as amended,'', 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.

1976—Subsec. (a). Pub. L. 94–520 substituted provision fixing the maximum annual salary of a part-time magistrate appointed under this chapter at one-half the maximum salary payable to a full-time magistrate for a former provision that fixed such annual salaries at $15,000 per year and provided that the salary of a full-time magistrate was not to exceed 75% of the annual salary of a United States District Court judge.

1972—Subsec. (a). Pub. L. 92–428 substituted limits of compensation for full-time and part-time United States magistrates at rates not exceeding those of full-time and part-time referees in bankruptcy, with exceptions that the salary of a part-time United States magistrate shall not be less than $100 nor more than $15,000 per annum and that the salary of a full-time United States magistrate shall not exceed 75 per cent of the salary of a judge of a district court of the United States, for provisions fixing maximum limits for full-time and part-time United States magistrates at $22,500 and $11,000, respectively, and minimum limit for part-time United States magistrates at $100 per annum.

1968—Pub. L. 90–578 substituted provisions for compensation of United States magistrates, comprising subsecs. (a) to (c) of this section and relating to: limitation on amount of compensation and consideration of certain factors for its determination; reduction of salaries of full-time magistrates; and consideration as judicial branch officers and employees of United States magistrates and necessary clerical and secretarial assistants, for prior provisions for salaries of park commissioners and disposition of fees, fines, and costs collected as public moneys.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–202 effective Oct. 1, 1988, and any salary affected by the amendment to be adjusted at beginning of first applicable pay period commencing on or after such date, see section 101(a) [title IV, § 408(d)] of Pub. L. 100–202, set out as a note under section 153 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 108(a) of Pub. L. 98–353 effective July 10, 1984, see section 122(a) of Pub. L. 98–353, set out as an Effective Date note under section 151 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

SALARY INCREASES

1987—Maximum salaries of U.S. magistrates (full-time) and U.S. magistrates (part-time) increased respectively to $72,500 and $36,200 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

CONTINUATION OF MAXIMUM RATES OF SALARY OF FULL-TIME AND PART-TIME UNITED STATES MAGISTRATES IN EFFECT ON JUNE 27, 1984

Section 108(b) of Pub. L. 98–353 provided that: ''The maximum rates for salary of full-time and part-time United States magistrates [now United States magistrate judges] in effect on June 27, 1984, shall remain in effect until changed as a result of a determination made under section 634(a) of title 28, United States Code, as amended by this Act.''

[Section 108(b) of Pub. L. 98–353 effective June 27, 1984, see section 122(c) of Pub. L. 98–353, set out as an Effective Date note under section 151 of this title.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 633 of this title.

§ 635. Expenses

(a) Full-time United States magistrates serving under this chapter shall be allowed their actual and necessary expenses incurred in the performance of their duties, including the compensation of such legal assistants as the Judicial Conference, on the basis of the recommendations of the judicial councils of the circuits, considers necessary, and the compensation of necessary clerical and secretarial assistance. Such expenses and compensation shall be determined and paid by the Director under such regulations as the Director shall prescribe with the approval of the conference. The Administrator of General Services shall provide such magistrates with necessary courtrooms, office space, furniture and facilities within United States courthouses or office buildings owned or occupied by departments or agencies of the United States, or should suitable courtroom and office space not be available within any such courthouse or office building, the Administrator of General Services, at the request of the Director, shall procure and pay for suitable courtroom and office space, furniture and facilities for such magistrate in another building, but only if such request has been approved as necessary by the judicial council of the appropriate circuit.

(b) Under such regulations as the Director shall prescribe with the approval of the conference, the Director shall reimburse part-time magistrates for actual expenses necessarily incurred by them in the performance of their duties under this chapter. Such reimbursement may be made, at rates not exceeding those prescribed by such regulations, for expenses incurred by such part-time magistrates for clerical and secretarial assistance, stationery, telephone and other communications services, travel, and such other expenses as may be determined to be necessary for the proper performance of the duties of such officers: *Provided, however*, That no reimbursement shall be made for all or any portion of the expense incurred by such part-time magistrates for the procurement of office space.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1112; Pub. L. 96–82, § 8(a), Oct. 10, 1979, 93 Stat. 646.)

HISTORICAL AND REVISION NOTES

Prior section 663.—Based on title 28, U.S.C., 1940 ed., §§ 597, 597a, 597b, 597c (May 28, 1896, ch. 252, §§ 21, 24, 29

Stat. 184, 186; Aug. 1, 1946, ch. 721, §§1–4, 60 Stat. 752, 753).

The provision of section 597c of title 28, U.S.C., 1940 ed., excepting commissioners in the Territory of Alaska was omitted as unnecessary since this exception is implicit in the revised section. The words ''in each judicial district'' limit the section to the commissioners in the districts enumerated in chapter 5 which includes Hawaii, Puerto Rico, and District of Columbia but omits Alaska, Canal Zone, [Guam] and Virgin Islands.

Salaries of park commissioners are provided by section 634 of this title.

Changes were made in phraseology.

AMENDMENTS

1979—Subsec. (a). Pub. L. 96–82 inserted reference to the compensation of such legal assistants as the Judicial Conference, on the basis of the recommendations of the judicial councils of the circuits, considers necessary.

1968—Pub. L. 90–578 substituted provisions relating to expenses for provisions prescribing residence for park commissioners. See section 631(b)(3) of this title.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 636 of this title.

§ 636. Jurisdiction, powers, and temporary assignment

(a) Each United States magistrate serving under this chapter shall have within the territorial jurisdiction prescribed by his appointment—

(1) all powers and duties conferred or imposed upon United States commissioners by law or by the Rules of Criminal Procedure for the United States District Courts;

(2) the power to administer oaths and affirmations, issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial, and take acknowledgements, affidavits, and depositions;

(3) the power to conduct trials under section 3401, title 18, United States Code, in conformity with and subject to the limitations of that section;

(4) the power to enter a sentence for a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction; and

(5) the power to enter a sentence for a class A misdemeanor, or a class B or C misdemeanor not covered by paragraph (4), in a case in which the parties have consented.

(b)(1) Notwithstanding any provision of law to the contrary—

(A) a judge may designate a magistrate to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate's order is clearly erroneous or contrary to law.

(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial[1] relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.

(C) the magistrate shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate. The judge may also receive further evidence or recommit the matter to the magistrate with instructions.

(2) A judge may designate a magistrate to serve as a special master pursuant to the applicable provisions of this title and the Federal Rules of Civil Procedure for the United States district courts. A judge may designate a magistrate to serve as a special master in any civil case, upon consent of the parties, without regard to the provisions of rule 53(b) of the Federal Rules of Civil Procedure for the United States district courts.

(3) A magistrate may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States.

(4) Each district court shall establish rules pursuant to which the magistrates shall discharge their duties.

(c) Notwithstanding any provision of law to the contrary—

(1) Upon the consent of the parties, a full-time United States magistrate or a part-time United States magistrate who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves. Upon the consent of the parties, pursuant to their specific written request, any other

[1] So in original. Probably should be ''post-trial''.

part-time magistrate may exercise such jurisdiction, if such magistrate meets the bar membership requirements set forth in section 631(b)(1) and the chief judge of the district court certifies that a full-time magistrate is not reasonably available in accordance with guidelines established by the judicial council of the circuit. When there is more than one judge of a district court, designation under this paragraph shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge.

(2) If a magistrate is designated to exercise civil jurisdiction under paragraph (1) of this subsection, the clerk of court shall, at the time the action is filed, notify the parties of the availability of a magistrate to exercise such jurisdiction. The decision of the parties shall be communicated to the clerk of court. Thereafter, either the district court judge or the magistrate may again advise the parties of the availability of the magistrate, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences. Rules of court for the reference of civil matters to magistrates shall include procedures to protect the voluntariness of the parties' consent.

(3) Upon entry of judgment in any case referred under paragraph (1) of this subsection, an aggrieved party may appeal directly to the appropriate United States court of appeals from the judgment of the magistrate in the same manner as an appeal from any other judgment of a district court. The consent of the parties allows a magistrate designated to exercise civil jurisdiction under paragraph (1) of this subsection to direct the entry of a judgment of the district court in accordance with the Federal Rules of Civil Procedure. Nothing in this paragraph shall be construed as a limitation of any party's right to seek review by the Supreme Court of the United States.

(4) The court may, for good cause shown on its own motion, or under extraordinary circumstances shown by any party, vacate a reference of a civil matter to a magistrate under this subsection.

(5) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.

(d) The practice and procedure for the trial of cases before officers serving under this chapter shall conform to rules promulgated by the Supreme Court pursuant to section 2072 of this title.

(e) In a proceeding before a magistrate, any of the following acts or conduct shall constitute a contempt of the district court for the district wherein the magistrate is sitting: (1) disobedience or resistance to any lawful order, process, or writ; (2) misbehavior at a hearing or other proceeding, or so near the place thereof as to obstruct the same; (3) failure to produce, after having been ordered to do so, any pertinent document; (4) refusal to appear after having been subpenaed or, upon appearing, refusal to take the oath or affirmation as a witness, or, having taken the oath or affirmation, refusal to be examined according to law; or (5) any other act or conduct which if committed before a judge of the district court would constitute contempt of such court. Upon the commission of any such act or conduct, the magistrate shall forthwith certify the facts to a judge of the district court and may serve or cause to be served upon any person whose behavior is brought into question under this section an order requiring such person to appear before a judge of that court upon a day certain to show cause why he should not be adjudged in contempt by reason of the facts so certified. A judge of the district court shall thereupon, in a summary manner, hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a judge of the court, or commit such person upon the conditions applicable in the case of defiance of the process of the district court or misconduct in the presence of a judge of that court.

(f) In an emergency and upon the concurrence of the chief judges of the districts involved, a United States magistrate may be temporarily assigned to perform any of the duties specified in subsection (a), (b), or (c) of this section in a judicial district other than the judicial district for which he has been appointed. No magistrate shall perform any of such duties in a district to which he has been temporarily assigned until an order has been issued by the chief judge of such district specifying (1) the emergency by reason of which he has been transferred, (2) the duration of his assignment, and (3) the duties which he is authorized to perform. A magistrate so assigned shall not be entitled to additional compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of his duties in accordance with section 635.

(g) A United States magistrate may perform the verification function required by section 4107 of title 18, United States Code. A magistrate may be assigned by a judge of any United States district court to perform the verification required by section 4108 and the appointment of counsel authorized by section 4109 of title 18, United States Code, and may perform such functions beyond the territorial limits of the United States. A magistrate assigned such functions shall have no authority to perform any other function within the territory of a foreign country.

(h) A United States magistrate who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in section 377 of this title or in subchapter III of chapter 83, and chapter 84, of title 5 which are applicable to such magistrate. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual

is to serve as a magistrate, shall not apply to the recall of a retired magistrate under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate under this subsection or section 375 of this title unless such retired magistrate met such requirement upon appointment or reappointment as a magistrate under section 631.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1113; Pub. L. 92–239, §§ 1, 2, Mar. 1, 1972, 86 Stat. 47; Pub. L. 94–577, § 1, Oct. 21, 1976, 90 Stat. 2729; Pub. L. 95–144, § 2, Oct. 28, 1977, 91 Stat. 1220; Pub. L. 96–82, § 2, Oct. 10, 1979, 93 Stat. 643; Pub. L. 98–473, title II, § 208, Oct. 12, 1984, 98 Stat. 1986; Pub. L. 98–620, title IV, § 402(29)(B), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 99–651, title II, § 201(a)(2), Nov. 14, 1986, 100 Stat. 3647; Pub. L. 100–659, § 4(c), Nov. 15, 1988, 102 Stat. 3918; Pub. L. 100–690, title VII, § 7322, Nov. 18, 1988, 102 Stat. 4467; Pub. L. 100–702, title IV, § 404(b)(1), title X, § 1014, Nov. 19, 1988, 102 Stat. 4651, 4669; Pub. L. 101–650, title III, § 308(a), Dec. 1, 1990, 104 Stat. 5112; Pub. L. 104–317, title II, §§ 201, 202(b), 207, Oct. 19, 1996, 110 Stat. 3848–3850.)

Historical and Revision Notes

Prior jurisdiction, powers, and procedure provisions in section 632.—Based on sections 27, 66, 67, 68, 80f, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c–5, 403c–6, 403h–5, 404c–5, and 408m of title 16, U.S.C., 1940 ed., Conservation (May 7, 1894, ch. 72, § 5, 28 Stat. 74; Apr. 20, 1904, ch. 1400, § 6, 33 Stat. 188; Mar. 2, 1907, ch. 2516, §§ 1, 2, 34 Stat. 1218; Mar. 3, 1911, ch. 230, 36 Stat. 1086; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 22, 1914, ch. 264, § 6, 38 Stat. 700; June 30, 1916, ch. 197, § 6, 39 Stat. 245; Aug. 21, 1916, ch. 368, § 6, 39 Stat. 523; June 2, 1920, ch. 218, §§ 7, 8, 41 Stat. 733; Apr. 25, 1928, ch. 434, § 6, 45 Stat. 460; Apr. 26, 1928, ch. 438, § 6, 45 Stat. 464; Apr. 19, 1930, ch. 200, § 6, 4 Stat. 228; May 2, 1932, ch. 155, § 3, 47 Stat. 145; June 25, 1935, ch. 309, § 1, 49 Stat. 422; Aug. 19, 1937, ch. 703, §§ 5, 6, 50 Stat. 702; June 25, 1938, ch. 684, § 1, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; Mar. 6, 1942, ch. 150, § 5, 56 Stat. 134; Mar. 6, 1942, ch. 151, § 5, 56 Stat. 137; Apr. 29, 1942, ch. 264, § 5, 56 Stat. 260; June 5, 1942, ch. 341, § 5, 56 Stat. 318; Apr. 23, 1946, ch. 202, § 2, 60 Stat. 120; June 24, 1946, ch. 463, § 2, 60 Stat. 303).

Section consolidates provisions of sections 27, 66, 67, 68, 80f, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c–5, 403c–6, 403h–5, 404c–5 and 408m of title 16, U.S.C., 1940 ed., relating to jurisdiction and powers of park commissioners with necessary changes in arrangement and phraseology. For other provisions of such sections, see Distribution Table.

The provisions of sections 27, 66, 67, 68, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c–5, 403c–6, 403h–5, 404c–5 and 408m of title 16, U.S.C., 1940 ed., relating to the powers of park commissioners respecting issuance of warrants of arrest and other process were omitted and are recommended for repeal as covered by sections 3041 and 3141 of revised title 18 (H.R. 1600, 80th Cong.), and Rules, 4, 5(c), and 9 of the new Federal Rules of Criminal Procedure.

Provisions in sections 27, 66, 67, 68, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c–5, 403c–6, 403h–5, 404c–5 and 408m of title 16, U.S.C., 1940 ed., for arrest without warrant for violation of law or regulation within a national park were also omitted and are recommended for repeal as covered by section 3054 of revised title 18 (H.R. 2200, 79th Cong.), Rule 4 of the Federal Rules of Criminal Procedure and Rule 4 of the Federal Rules of Civil Procedure.

Senate Revision Amendment

As finally enacted, section 158b of Title 16, U.S.C., which was derived from act May 15, 1947, ch. 55, § 2, 61 Stat. 92, was an additional source of this section, and such act was accordingly included by Senate amendment in the schedule of repeals. No change in the text of the section was necessary as the result of inclusion of such section 158b. See 80th Congress Senate Report No. 1559.

As finally enacted, act May 15, 1947, ch. 57, 61 Stat. 92, which amended section 403c–5 of Title 16, U.S.C., was an additional source of this section, and such act was accordingly included by Senate amendment in the schedule of repeals. See 80th Congress Senate Report No. 1559.

Prior oaths, acknowledgments, affidavits, and depositions provisions in section 637.—Based on title 28, U.S.C., 1940 ed., §§ 525, 758 (R.S. § 945; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

This section consolidates part of section 525 with section 758 of title 28, U.S.C., 1940 ed. The provision of said section 525 empowering clerks and deputy clerks to administer oaths is incorporated in section 953 of this title. The provision of said section 758 that acknowledgments of bail and affidavits should have the same effect as if taken before judges was omitted as surplusage.

The exception as to Alaska, provided in section 591 of title 28, U.S.C., 1940 ed., and referred to in section 525 of title 28, U.S.C., 1940 ed., was omitted as unnecessary since section 108 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and section 1119 of the Compiled Laws of Alaska, 1933, give commissioners all powers of notaries public. See also reviser's notes to sections 631 and 633 of this title.

Word ''acknowledgments'' was inserted to make it clear that commissioners, like justices of the peace, can take acknowledgments as well as oaths, affidavits, etc.

The authority to take depositions was included to conform to Federal Rules of Civil Procedure, Rule 28.

Changes were made in phraseology.

References in Text

The Rules of Criminal Procedure for the United States District Courts, referred to in subsec. (a)(1), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The Federal Rules of Civil Procedure for the United States district courts, referred to in subsecs. (b)(2) and (c)(3), are set out in the Appendix to this title.

Amendments

1996—Subsec. (a)(3). Pub. L. 104–317, § 202(b)(1), substituted a semicolon for '', and'' at end.

Subsec. (a)(4), (5). Pub. L. 104–317, § 202(b)(2), added pars. (4) and (5) and struck out former par. (4) which read as follows: ''the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.''

Subsec. (c)(3). Pub. L. 104–317, § 207(1)(A), substituted ''The consent of the parties'' for ''In this circumstance, the consent of the parties''.

Subsec. (c)(4) to (7). Pub. L. 104–317, § 207(1)(B), (C), redesignated pars. (6) and (7) as (4) and (5) and struck out former pars. (4) and (5) which read as follows:

''(4) Notwithstanding the provisions of paragraph (3) of this subsection, at the time of reference to a magistrate, the parties may further consent to appeal on the record to a judge of the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Wherever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal inexpensive. The district court may affirm, reverse, modify, or remand the magistrate's judgment.

''(5) Cases in the district courts under paragraph (4) of this subsection may be reviewed by the appropriate United States court of appeals upon petition for leave

to appeal by a party stating specific objections to the judgment. Nothing in this paragraph shall be construed to be a limitation on any party's right to seek review by the Supreme Court of the United States.''

Subsec. (d). Pub. L. 104–317, § 207(2), struck out '', and for the taking and hearing of appeals to the district courts,'' after ''officers serving under this chapter''.

Subsec. (f). Pub. L. 104–317, § 201, substituted ''subsection (a), (b), or (c)'' for ''subsection (a) or (b)'' in first sentence.

1990—Subsec. (c)(2). Pub. L. 101–650 substituted ''the availability of a magistrate to exercise'' for ''their right to consent to the exercise of'' in first sentence and amended third sentence generally. Prior to amendment, third sentence read as follows: ''Thereafter, neither the district judge nor the magistrate shall attempt to persuade or induce any party to consent to reference of any civil matter to a magistrate.''

1988—Subsec. (a)(4). Pub. L. 100–690 added par. (4).

Subsec. (c)(7). Pub. L. 100–702, § 1014, amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''The magistrate shall determine, taking into account the complexity of the particular matter referred to the magistrate, whether the record in the proceeding shall be taken, pursuant to section 753 of this title, by electronic sound recording means, by a court reporter appointed or employed by the court to take a verbatim record by shorthand or by mechanical means, or by an employee of the court designated by the court to take such a verbatim record. Notwithstanding the magistrate's determination, (A) the proceeding shall be taken down by a court reporter if any party so requests, (B) the proceeding shall be recorded by a means other than a court reporter if all parties so agree, and (C) no record of the proceeding shall be made if all parties so agree. Reporters referred to in this paragraph may be transferred for temporary service in any district court of the judicial circuit for reporting proceedings under this subsection, or for other reporting duties in such court.''

Subsec. (d). Pub. L. 100–702, § 404(b)(1), substituted ''section 2072 of this title'' for ''section 3402 of title 18, United States Code''.

Subsec. (h). Pub. L. 100–659 inserted ''section 377 of this title or in'' after ''annuity set forth in'' and ''which are applicable to such magistrate'' after ''title 5'' in second sentence.

1986—Subsec. (h). Pub. L. 99–651 added subsec. (h).

1984—Subsec. (a)(2). Pub. L. 98–473 substituted ''issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial'' for ''impose conditions of release under section 3146 of title 18''.

Subsec. (c)(4). Pub. L. 98–620 struck out ''expeditious and'' before ''inexpensive''.

1979—Subsec. (c). Pub. L. 96–82, § 2(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d) to (g). Pub. L. 96–82, § 2(1), redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1977—Subsec. (f). Pub. L. 95–144 added subsec. (f).

1976—Subsec. (b). Pub. L. 94–577 completely revised provisions under which additional duties may be assigned to a United States Magistrate by allowing, among other additional duties, the assignment of pretrial matters, dispositive motions, and service as a special master.

1972—Pub. L. 92–239, § 2, substituted ''Jurisdiction, powers, and temporary assignment'' for ''Jurisdiction and powers'' in section catchline.

Subsec. (e). Pub. L. 92–239, § 1, added subsec. (e).

1968—Pub. L. 90–578 substituted provisions declaratory of jurisdiction and powers of United States magistrates for prior provisions respecting rendition of accounts by United States commissioners.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 404(b)(1) of Pub. L. 100–702 effective Dec. 1, 1988, see section 407 of Pub. L. 100–702, set out as a note under section 2071 of this title.

Amendment by Pub. L. 100–659 effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrates [now United States magistrate judges] who retire on or after Nov. 15, 1988, with exception for judges and magistrates retiring on or after July 31, 1987, see section 9 of Pub. L. 100–659, set out as an Effective Date note under section 377 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–651 effective Jan. 1, 1987, see section 203 of Pub. L. 99–651, set out as a note under section 155 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as an Effective Date note under section 1657 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 374, 375, 376, 377, 631, 633 of this title; title 7 section 2149; title 19 section 1915; title 46 sections 4311, 12309.

§ 637. Training

The Federal Judicial Center shall conduct periodic training programs and seminars for both full-time and part-time United States magistrates, including an introductory training program for new magistrates, to be held within one year after initial appointment.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1114.)

AMENDMENTS

1968—Pub. L. 90–578 substituted provisions for periodic training programs and seminars for United States magistrates for prior authorization of United States commissioners to administer oaths and take bail, acknowledgements, affidavits, and depositions, now incorporated in section 636(a)(2) of this title.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

§ 638. Dockets and forms; United States Code; seals

(a) The Director shall furnish to United States magistrates adequate docket books and forms

prescribed by the Director. The Director shall also furnish to each such officer a copy of the current edition of the United States Code.

(b) All property furnished to any such officer shall remain the property of the United States and, upon the termination of his term of office, shall be transmitted to his successor in office or otherwise disposed of as the Director orders.

(c) The Director shall furnish to each United States magistrate appointed under this chapter an official impression seal in a form prescribed by the conference. Each such officer shall affix his seal to every jurat or certificate of his official acts without fee.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1114.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 528, 528a (June 28, 1906, ch. 3573, 34 Stat. 546; July 10, 1946, ch. 548, 60 Stat. 525).

Section consolidates section 528 and part of section 528a of title 28, U.S.C., 1940 ed., with changes in phraseology necessary to effect consolidation.

Provisions of section 528a of title 28, U.S.C., 1940 ed., relating to dockets and forms, are incorporated in section 639 of this title.

Words ''Director of the Administrative Office of the United States Courts'' were substituted for ''Attorney General'', contained in section 528 of title 28, U.S.C., 1940 ed., in view of Act Aug. 7, 1939, ch. 501, § 6, 53 Stat. 1226, 28 U.S.C., 1940 ed., following § 446, giving the Directors supervision of court administrative matters.

Changes in phraseology were made.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–578 incorporated in provisions designated as subsec. (a) provisions of first par. of former section 639 of this title, substituting ''United States magistrates'' for prior designation as ''United States Commissioners'', specifying that the copy of the United States Code be a current edition, and dispensing with approval by the chief judge of the district court for a copy of such Code.

Subsec. (b). Pub. L. 90–578 incorporated in provisions designated as subsec. (b) provisions of the second par. of former section 639 of this title.

Subsec. (c). Pub. L. 90–578 designated existing provisions as subsec. (c), and substituted ''United States magistrate'' for ''United States commissioner'', provision for appointment under this chapter rather than after July 10, 1946, provision that the form of the seal be prescribed by the conference rather than the Director, and ''without fee'' for ''without additional fee''.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

§ 639. Definitions

As used in this chapter—

(1) ''Conference'' shall mean the Judicial Conference of the United States;

(2) ''Council'' shall mean the Judicial Council of the Circuit;

(3) ''Director'' shall mean the Director of the Administrative Office of the United States Courts;

(4) ''Full-time magistrate'' shall mean a full-time United States magistrate;

(5) ''Part-time magistrate'' shall mean a part-time United States magistrate; and

(6) ''United States magistrate'' and ''magistrate'' shall mean both full-time and part-time United States magistrates.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90–578, title I, § 101, Oct. 17, 1968, 82 Stat. 1114.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 528a (July 10, 1946, ch. 548, 60 Stat. 525).

Provisions of section 528a of title 28, U.S.C., 1940 ed., for furnishing seal is included in section 638 of this title.

Changes were made in phraseology.

AMENDMENTS

1968—Pub. L. 90–578 substituted definition provisions for prior requirements obligating the Director to furnish docket books and forms to United States commissioners and, with approval of the chief judge of the district court, a copy of the United States Code, declaring such property to remain United States property, and calling for transmission of such property to successors in office or for its disposal as directed by the Director, now incorporated in section 638(a) and (b) of this title.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90–578 on Oct. 17, 1968, see section 403 of Pub. L. 90–578, set out as a note under section 631 of this title.

CHAPTER 44—ARBITRATION

Sec.
651. Authorization of arbitration.
652. Jurisdiction.
653. Powers of arbitrator; arbitration hearing.
654. Arbitration award and judgment.
655. Trial de novo.
656. Certification of arbitrators.
657. Compensation of arbitrators.
658. District courts that may authorize arbitration.

§ 651. Authorization of arbitration

(a) AUTHORITY OF CERTAIN DISTRICT COURTS.—Each United States district court described in section 658 may authorize by local rule the use of arbitration in any civil action, including an adversary proceeding in bankruptcy. A district court described in section 658(1) may refer any such action to arbitration as set forth in section 652(a). A district court described in section 658(2) may refer only such actions to arbitration as are set forth in section 652(a)(1)(A).

(b) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9.

(Added Pub. L. 100–702, title IX, §901(a), Nov. 19, 1988, 102 Stat. 4659.)

EFFECTIVE DATE

Section 907 of title IX of Pub. L. 100–702 provided that: ''This title and the amendments made by this title [enacting this chapter and provisions set out as notes under this section and section 652 of this title] shall take effect 180 days after the date of enactment of this Act [Nov. 19, 1988].''

Section 906 of Pub. L. 100–702, as amended by Pub. L. 103–192, §1(a), Dec. 14, 1993, 107 Stat. 2292, provided that, effective Dec. 31, 1994, this chapter and the item relating to this chapter in the table of chapters at the beginning of part III of this title were repealed, prior to repeal by Pub. L. 103–420, §3(b), Oct. 25, 1994, 108 Stat. 4345.

Section 2 of Pub. L. 103–192 provided that this chapter and the item relating to this chapter in the table of chapters at the beginning of part III of this title continued on or after Dec. 14, 1993, as if they had not been repealed by section 906 of Pub. L. 100–702, formerly set out above, as such section was in effect on the day before Dec. 14, 1993.

MODEL PROCEDURES

Section 902 of title IX of Pub. L. 100–702 provided that: ''The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44, as added by section 901 of this Act. No model rule may supersede any provision of such chapter 44, this title [enacting this chapter and provisions set out as notes under this section and section 652 of this title], or any law of the United States.''

REPORTS BY DIRECTOR OF ADMINISTRATIVE OFFICE OF UNITED STATES COURTS AND BY FEDERAL JUDICIAL CENTER

Section 903 of Pub. L. 100–702 provided that:

''(a) ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3) [28 U.S.C. 604(a)(3)], statistical information about the implementation of chapter 44, as added by section 901 of this Act.

''(b) REPORT BY FEDERAL JUDICIAL CENTER.—Not later than 5 years after the date of enactment of this Act [Nov. 19, 1988], the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44, as added by section 901 of this Act, which shall include the following:

''(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

''(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

''(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

''(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

''(5) Recommendations to the Congress on whether to terminate or continue chapter 44, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.''

EFFECT ON JUDICIAL RULEMAKING POWERS

Section 904 of title IX of Pub. L. 100–702 provided that: ''Nothing in this title [enacting this chapter and provisions set out as notes under this section and section 652 of this title], or in chapter 44, as added by section 901 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.''

AUTHORIZATION OF APPROPRIATIONS

Section 905 of Pub. L. 100–702, as amended by Pub. L. 103–192, §1(b), Dec. 14, 1993, 107 Stat. 2292; Pub. L. 103–420, §3(a), Oct. 25, 1994, 108 Stat. 4345; Pub. L. 105–53, §1, Oct. 6, 1997, 111 Stat. 1173, provided that: ''There are authorized to be appropriated for each fiscal year to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44, as added by section 901 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 652 of this title.

§652. Jurisdiction

(a) ACTIONS THAT MAY BE REFERRED TO ARBITRATION.—(1) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, and section 901(c) of the Judicial Improvements and Access to Justice Act, a district court that authorizes arbitration under section 651 may—

(A) allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it if the parties consent to arbitration, and

(B) require the referral to arbitration of any civil action pending before it if the relief sought consists only of money damages not in excess of $100,000 or such lesser amount as the district court may set, exclusive of interest and costs.

(2) For purposes of paragraph (1)(B), a district court may presume damages are not in excess of $100,000 unless counsel certifies that damages exceed such amount.

(b) ACTIONS THAT MAY NOT BE REFERRED WITHOUT CONSENT OF PARTIES.—Referral to arbitration under subsection (a)(1)(B) may not be made—

(1) of an action based on an alleged violation of a right secured by the Constitution of the United States, or

(2) if jurisdiction is based in whole or in part on section 1343 of this title.

(c) EXCEPTIONS FROM ARBITRATION.—Each district court shall establish by local rule procedures for exempting, sua sponte or on motion of a party, any case from arbitration in which the objectives of arbitration would not be realized—

(1) because the case involves complex or novel legal issues,

(2) because legal issues predominate over factual issues, or

(3) for other good cause.

(d) SAFEGUARDS IN CONSENT CASES.—In any civil action in which arbitration by consent is allowed under subsection (a)(1)(A), the district court shall by local rule establish procedures to ensure that—

(1) consent to arbitration is freely and knowingly obtained, and

(2) no party or attorney is prejudiced for refusing to participate in arbitration.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4659.)

REFERENCES IN TEXT

Section 901(c) of the Judicial Improvements and Access to Justice Act, referred to in subsec. (a)(1), is section 901(c) of Pub. L. 100–702, which is set out as a note below.

EXCEPTION TO LIMITATION ON MONEY DAMAGES

Section 901(c) of Pub. L. 100–702 provided that: ''Notwithstanding section 652 [28 U.S.C. 652] (as added by subsection (a) of this section), establishing a limitation of $100,000 in money damages with respect to cases referred to arbitration, a district court listed in section 658 [28 U.S.C. 658] (as added by subsection (a) of this section), whose local rule on the date of the enactment of this Act [Nov. 19, 1988] provides for a limitation on money damages, with respect to such cases, of not more than $150,000, may continue to apply the higher limitation.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 651, 653 of this title.

§ 653. Powers of arbitrator; arbitration hearing

(a) POWERS.—An arbitrator to whom an action is referred under section 652 shall have, within the judicial district of the district court which referred the action to arbitration, the power—

(1) to conduct arbitration hearings,

(2) to administer oaths and affirmations, and

(3) to make awards.

(b) TIME FOR BEGINNING ARBITRATION HEARING.—An arbitration hearing under this chapter shall begin within a time period specified by the district court, but in no event later than 180 days after the filing of an answer, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 180-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown.

(c) SUBPOENAS.—Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4660.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in the Appendix to this title.

§ 654. Arbitration award and judgment

(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall, promptly after the arbitration hearing is concluded, be filed with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo under section 655. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

(b) SEALING OF ARBITRATION AWARD.—The district court shall provide by local rule that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case—

(1) except as necessary for the court to determine whether to assess costs or attorney fees under section 655,

(2) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

(3) except for purposes of preparing the report required by section 903(b) of the Judicial Improvements and Access to Justice Act.

(c) TAXATION OF COSTS.—The district court may by rule allow for the inclusion of costs as provided in section 1920 of this title as a part of the arbitration award.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4660.)

REFERENCES IN TEXT

Section 903(b) of the Judicial Improvements and Access to Justice Act, referred to in subsec. (b)(3), is section 903(b) of Pub. L. 100–702, which is set out as a note under section 651 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 655 of this title.

§ 655. Trial de novo

(a) TIME FOR DEMAND.—Within 30 days after the filing of an arbitration award with a district court under section 654, any party may file a written demand for a trial de novo in the district court.

(b) RESTORATION TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration. In such a case, any right of trial by jury that a party otherwise would have had, as well as any place on the court calendar which is no later than that which a party otherwise would have had, are preserved.

(c) LIMITATION ON ADMISSION OF EVIDENCE.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

(1) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence, or

(2) the parties have otherwise stipulated.

(d) TAXATION OF ARBITRATOR FEES AS COST.—(1)(A) A district court may provide by rule that, in any trial de novo under this section, arbitra-

tor fees paid under section 657 may be taxed as costs against the party demanding the trial de novo.

(B) Such rule may provide that a party demanding a trial de novo under subsection (a), other than the United States or its agencies or officers, shall deposit a sum equal to such arbitrator fees as advanced payment of such costs, unless the party is permitted to proceed in forma pauperis.

(2) Arbitrator fees shall not be taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) shall be returned to the party demanding the trial de novo, if—

(A) the party demanding the trial de novo obtains a final judgment more favorable than the arbitration award, or

(B) the court determines that the demand for the trial de novo was made for good cause.

(3) Any arbitrator fees taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) that is not returned to the party demanding the trial de novo, shall be paid to the Treasury of the United States.

(4) Any rule under this subsection shall provide that no penalty for demanding a trial de novo, other than that provided in this subsection, shall be assessed by the court.

(e) ASSESSMENT OF COSTS AND ATTORNEY FEES.—In any trial de novo demanded under subsection (a) in which arbitration was done by consent of the parties, a district court may assess costs, as provided in section 1920 of this title, and reasonable attorney fees against the party demanding the trial de novo if—

(1) such party fails to obtain a judgment, exclusive of interest and costs, in the court which is substantially more favorable to such party than the arbitration award, and

(2) the court determines that the party's conduct in seeking a trial de novo was in bad faith.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4661.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c)(1), are set out in the Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 654 of this title.

§ 656. Certification of arbitrators

(a) STANDARDS FOR CERTIFICATION.—Each district court listed in section 658 shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

(1) shall take the oath or affirmation described in section 453, and

(2) shall be subject to the disqualification rules of section 455.

(b) TREATMENT OF ARBITRATOR AS INDEPENDENT CONTRACTOR AND SPECIAL GOVERNMENT EMPLOYEE.—An arbitrator is an independent contractor and is subject to the provisions of sections 201 through 211 of title 18 to the same extent as such provisions apply to a special Government employee of the executive branch. A person may not be barred from the practice of law because such person is an arbitrator.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4662.)

§ 657. Compensation of arbitrators

(a) COMPENSATION.—The district court may, subject to limits set by the Judicial Conference of the United States, establish and pay the amount of compensation, if any, that each arbitrator shall receive for services rendered in each case.

(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4662.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 655 of this title.

§ 658. District courts that may authorize arbitration

The district courts for the following judicial districts may authorize the use of arbitration under this chapter:

(1) Northern District of California, Middle District of Florida, Western District of Michigan, Western District of Missouri, District of New Jersey, Eastern District of New York, Middle District of North Carolina, Western District of Oklahoma, Eastern District of Pennsylvania, and Western District of Texas.

(2) Ten additional judicial districts, which shall be approved by the Judicial Conference of the United States. The Judicial Conference shall give notice of the 10 districts approved under this paragraph to the Federal Judicial Center and to the public.

(Added Pub. L. 100–702, title IX, § 901(a), Nov. 19, 1988, 102 Stat. 4662.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 651, 656 of this title.

CHAPTER 45—SUPREME COURT

Sec.
671. Clerk.
672. Marshal.
673. Reporter.
674. Librarian.
675. Law clerks and secretaries.
676. Printing and binding.
677. Administrative Assistant to the Chief Justice.

AMENDMENTS

1972—Pub. L. 92–238, § 2, Mar. 1, 1972, 86 Stat. 46, added item 677.

CROSS REFERENCES

General provisions applicable to court officers and employees, see sections 951 et seq. of this title.

§ 671. Clerk

(a) The Supreme Court may appoint and fix the compensation of a clerk and one or more

deputy clerks. The clerk shall be subject to removal by the Court. Deputy clerks shall be subject to removal by the clerk with the approval of the Court or the Chief Justice of the United States.

[(b) Repealed. Pub. L. 92–310, title II, § 206(c), June 6, 1972, 86 Stat. 203.]

(c) The clerk may appoint and fix the compensation of necessary assistants and messengers with the approval of the Chief Justice of the United States.

(d) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him. He shall make annual returns thereof to the Court under regulations prescribed by it.

(June 25, 1948, ch. 646, 62 Stat. 918; Pub. L. 88–279, § 1, Mar. 10, 1964, 78 Stat. 158; Pub. L. 92–310, title II, § 206(c), June 6, 1972, 86 Stat. 203.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 325, 326, 327, 541 and 542 (Feb. 22, 1875, ch. 95, §§ 2, 3, 18 Stat. 333; Mar. 3, 1883, ch. 143, 22 Stat. 631; Mar. 15, 1898, ch. 68, § 8, 30 Stat. 317; Mar. 3, 1911, ch. 231, §§ 219, 220, 221, 291, 36 Stat. 1152, 1153, 1167; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

This section consolidates sections 541 and 542 of title 28, U.S.C., 1940 ed., with parts of sections 325, 326 and 327 of such title.

The provisions in said section 325 relating to appointment of a marshal and reporter are incorporated in sections 672 and 673 of this title.

The provisions in section 327 of title 28, U.S.C., 1940 ed., relating to duties and liabilities of the clerk's deputies are incorporated in section 954 of this title.

The provision of section 326 of title 28, U.S.C., 1940 ed., that a duly certified copy of the clerk's bond should be competent evidence in any court, is incorporated in section 1737 of this title.

The provision that the clerk shall be subject to removal by the Court is new. Section 327 of title 28, U.S.C., 1940 ed., contained a similar provision as to deputies, but fixed no term of office for the clerk and made no provision for his removal. The Supreme Court held, in 1839, that a district judge had power to remove his clerk at pleasure in absence of any law fixing the clerk's tenure. *In re Hennen*, 38 U.S. 230, 13 Pet. 230, 10 L.Ed. 138. (See, also *Myers v. U.S.*, 1926, 47 S.Ct. 21, 272 U.S. 52, 71 L.Ed. 160.)

The provision in section 326 of title 28, U.S.C., 1940 ed., that the clerk's bond be not less than $5,000 and not more than $20,000 was omitted. The Supreme Court should have wide discretion in such administrative matters. (See Hearings before Appropriations Committee, House of Representatives, 78th Cong., 2d sess., on Judiciary Appropriation Bill for 1945, page 102.)

A provision of section 326 of title 28, U.S.C., 1940 ed., that a renewed or augmented bond should be required upon the Attorney General's motion and after thirty days' notice was omitted. The manner of requiring such bond is left to the Court's discretion by the revised section.

A further provision of section 326 of title 28, U.S.C., 1940 ed., that the failure to furnish such renewed or augmented bond should vacate the clerk's office was omitted as unnecessary, since the clerk is removable by the Court under this section.

The references in section 541 of title 28, U.S.C., 1940 ed., to return "under oath" to be made "on the 1st day of January of each year, or thirty days thereafter" and "on a form prescribed by the Attorney General", were omitted as fully covered by the revised language "annual returns" under "regulations prescribed by the Court". Verification seems unnecessary especially as clerks of the courts of appeals are not required to submit similar returns under oath (see section 711 of this title). "Court" was substituted for "Attorney General", since the latter's powers and functions in court administrative matters have been transferred to the Director of the Administration Office of the United States Courts. (See sections 604 and 607 of this title.) The Director, however, exercises no authority in Supreme Court matters.

Section 542 of title 28, U.S.C., 1940 ed., provided that the clerk "shall not retain", out of fees received, more than $6,000 annually above clerk hire and expenses; that the surplus should be paid into the Treasury. Such indirect and unusual provision is simplified in this section by providing that his salary shall be fixed by the Court. Such salary limitation is omitted as inconsistent with larger salaries paid other clerks of courts.

The provisions that the Court shall fix the compensation of deputy clerks, and that the clerk shall fix the compensation of assistants and messengers with the approval of the Chief Justice, are new. Current appropriation Acts providing that the compensation of officers and employees of the Supreme Court, other than clerk and reporter shall be fixed by the court, unnecessarily burden the court with administrative details. Provision for allowance and approval of payments of compensation and office expenses by the clerk upon allowance and approval by the Chief Justice, instead of by the Court, was inserted with the approval of the Judicial Conference Committee on Revision of the Judicial Code as not inconsistent with section 542 of title 28, U.S.C., 1940 ed.

References in sections 541 and 542 of title 28, U.S.C., 1940 ed., to certification of expenses by the justices and for audit and allowances by the General Accounting Office, were omitted as unnecessary in view of this section.

Changes were made in phraseology.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–310 repealed subsec. (b) which related to bond of Clerk of Supreme Court.

1964—Subsec. (c). Pub. L. 88–279 struck out provision for disbursement by clerk of compensation of clerk, his deputies, assistants, and messengers and the necessary expenses of office from the fees collected by clerk, upon allowance and approval by Chief Justice of the United States.

Subsec. (d). Pub. L. 88–279 substituted "moneys collected by him" for "emoluments of his office over and above his lawful disbursements".

EFFECTIVE DATE OF 1964 AMENDMENT

Section 4 of Pub. L. 88–279 provided that: "The amendments proposed in this Act [amending this section and section 672 of this title] shall become effective only when funds have been appropriated and are available to pay the salaries and other expenses of the clerk's office."

APPROPRIATIONS

Section 3 of Pub. L. 88–279 provided that: "There are hereby authorized to be appropriated annually such sums as are necessary to carry out the provisions of this Act [amending this section and section 672 of this title]."

CROSS REFERENCES

Fees of clerk to be fixed by Supreme Court, see section 1911 of this title.

Oath of clerk and deputies, see section 951 of this title.

§ 672. Marshal

(a) The Supreme Court may appoint a marshal, who shall be subject to removal by the Court, and may fix his compensation.

(b) The marshal may, with the approval of the Chief Justice of the United States, appoint and fix the compensation of necessary assistants and other employees to attend the Court, and necessary custodial employees.

(c) The marshal shall:

(1) Attend the Court at its sessions;

(2) Serve and execute all process and orders issued by the Court or a member thereof;

(3) Take charge of all property of the United States used by the Court or its members;

(4) Disburse funds appropriated for work upon the Supreme Court building and grounds under the jurisdiction of the Architect of the Capitol upon certified vouchers submitted by the Architect;

(5) Disburse funds appropriated for the purchase of books, pamphlets, periodicals and other publications, and for their repair, binding, and rebinding, upon vouchers certified by the librarian of the Court;

(6) Pay the salaries of the Chief Justice, associate justices, and all officers and employees of the Court and disburse other funds appropriated for disbursement, under the direction of the Chief Justice;

(7) Pay the expenses of printing briefs and travel expenses of attorneys in behalf of persons whose motions to appear in forma pauperis in the Supreme Court have been approved and when counsel have been appointed by the Supreme Court, upon vouchers certified by the clerk of the Court;

(8) Oversee the Supreme Court Police.

(June 25, 1948, ch. 646, 62 Stat. 918; Pub. L. 88–279, § 2, Mar. 10, 1964, 78 Stat. 158; Pub. L. 97–390, § 2, Dec. 29, 1982, 96 Stat. 1958.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 325, 331, and section 13d of title 40, U.S.C., 1940 ed., Public Buildings, Property and Works (Mar. 3, 1911, ch. 231, §§ 219, 224, 36 Stat. 1152, 1153; April 11, 1928, ch. 358, 45 Stat. 424; May 7, 1934, ch. 222, § 4, 48 Stat. 668).

This section consolidates part of section 325 of title 28, U.S.C., 1940 ed., with section 331 of such title and section 13d of title 40, U.S.C., 1940 ed.

Provisions of section 325 of title 28, U.S.C., 1940 ed., relating to appointment of clerk and reporter of the Supreme Court are incorporated in sections 671 and 673 of this title.

Provision of section 331 of title 28, U.S.C., 1940 ed., fixing the marshal's salary at "not to exceed $5,500 per annum" was omitted and the court given authority to fix the salary in conformity with sections 671 and 673 of this title relating to the clerk and the reporter.

Part of subsection (c)(5) is new. It recognizes the propriety of certification by the Court Librarian of vouchers for expenditures for the library. (See reviser's note under section 674 of this title.)

The marshal's duties as superintendent of the Supreme Court building are incorporated in section 13c of title 40, U.S.C., 1940 ed.

Changes were made in phraseology.

AMENDMENTS

1982—Subsec. (c)(8). Pub. L. 97–390 added par. (8).

1964—Subsec. (c)(6). Pub. L. 88–279, § 2(a), struck out "except the clerk, his deputies and employees," after "employees of the Court".

Subsec. (c)(7). Pub. L. 88–279, § 2(b), added par. (7).

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–279 effective upon appropriation and availability of funds to pay salaries and other expenses of the clerk's office, see section 4 of Pub. L. 88–279, set out as a note under section 671 of this title.

APPROPRIATIONS

Annual appropriations to carry out amendment of this section by Pub. L. 88–279, see section 3 of Pub. L. 88–279, set out as a note under section 671 of this title.

§ 673. Reporter

(a) The Supreme Court may appoint and fix the compensation of a reporter of its decisions who shall be subject to removal by the Court.

(b) The reporter may appoint and fix the compensation of necessary professional and clerical assistants and other employees, with the approval of the Court or the Chief Justice of the United States.

(c) The reporter shall, under the direction of the Court or the Chief Justice, prepare the decisions of the Court for publication in bound volumes and advance copies in pamphlet installments.

The reporter shall determine the quality and size of the paper, type, format, proofs and binding subject to the approval of the Court or the Chief Justice.

(June 25, 1948, ch. 646, 62 Stat. 919.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 325, 332, and 333 (Mar. 3, 1911, ch. 231, §§ 219, 225, 226, 36 Stat. 1152, 1153; July 1, 1922, ch. 267, §§ 1, 2, 42 Stat. 816; May 29, 1926, ch. 425, § 1, 44 Stat. 677).

This section consolidates sections 332 and 333 of title 28, U.S.C., 1940 ed., with part of section 325 of such title.

Provisions of section 325 of title 28, U.S.C., 1940 ed., relating to appointment of clerk and marshal of the Supreme Court are incorporated in sections 671 and 672 of this title.

The provision as to tenure is new and is added to insure consistency with other revised sections relating to tenure of court officers.

The provisions of section 333 of title 28, U.S.C., 1940 ed., fixing the reporter's salary at $8,000 per annum were omitted and the Court given authority to fix the salary in conformity with sections 671 and 672 of this title relating to the clerk and the marshal.

Provisions of section 333 of title 28, U.S.C., 1940 ed., for allowance of stationery, supplies, equipment, and office rent are omitted as obsolete. Offices are now provided in the Supreme Court building and supplies are furnished by the marshal.

The last sentence of section 333 of title 28, U.S.C., 1940 ed., relating to the payment of the reporter's expenses from appropriation for the Supreme Court, was omitted as surplusage.

The revised section makes specific the implied power to fix the compensation of the reporter's assistants.

The provision in section 332 of title 28, U.S.C., 1940 ed., authorizing the Public Printer to do the printing referred to in such section, was omitted as unnecessary. (See section 111 of title 44, U.S.C., 1940 ed., Public Printing and Documents.)

Authority for making an appropriation to carry into effect the provisions of this section relating to compensation and allowances of the reporter, compensation of his assistants, and preparation of the decisions of the Supreme Court for publication, is contained in section 336 of title 28, U.S.C., 1940 ed. (Acts July 1, 1922, ch. 267, § 5, 42 Stat. 818; May 29, 1926, ch. 425, § 3, 44 Stat. 678), which is omitted, but not repealed, as unnecessary in this revision.

§ 674. Librarian

(a) The Supreme Court may appoint a librarian, whose salary it shall fix, and who shall be subject to removal by the Court.

(b) The librarian shall, with the approval of the Chief Justice, appoint necessary assistants

and fix their compensation and make rules governing the use of the library.

(c) He shall select and acquire by purchase, gift, bequest, or exchange, such books, pamphlets, periodicals, microfilm and other processed copy as may be required by the Court for its official use and for the reasonable needs of its bar.

(d) The librarian shall certify to the marshal for payment vouchers covering expenditures for the purchase of such books and other material, and for binding, rebinding and repairing the same.

(June 25, 1948, ch. 646, 62 Stat. 919; Pub. L. 92–310, title II, § 206(d), June 6, 1972, 86 Stat. 203.)

HISTORICAL AND REVISION NOTES

This section gives statutory recognition to the office of librarian. For many years the Court has appointed its librarian directly through the Chief Justice, rather than through the marshal. Other members of the library staff are appointed by the librarian, with the approval of the Chief Justice.

Under this section the marshal will not be required to certify to expenditures for some 2,000 books bought for the library each year but this will be the duty of the librarian.

AMENDMENTS

1972—Subsec. (d). Pub. L. 92–310 struck out sentence which required the librarian to furnish a bond.

§ 675. Law clerks and secretaries

The Chief Justice of the United States, and the associate justices of the Supreme Court may appoint law clerks and secretaries whose salaries shall be fixed by the Court.

(June 25, 1948, ch. 646, 62 Stat. 919.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1926 ed., § 328 (June 1, 1922, ch. 204, title II, 42 Stat. 614; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1081; May 28, 1924, ch. 204, title II, 43 Stat. 218; Feb. 27, 1925, ch. 364, title II, 43 Stat. 1028).

Section is derived from Appropriation Acts for fiscal years cited in the credits. It was omitted from the 1934 and 1940 editions of the U.S. Code because it was considered to be probably of a temporary nature. This section is consistent with other provisions authorizing the appointment of similar personnel for circuit and district judges.

The 1942 appropriation act (July 2, 1942, ch. 472, title IV, 56 Stat. 501) made provision for "all other officers and employees, whose compensation shall be fixed by the Court, except as otherwise provided by law and who may be assigned by the Chief Justice to any office or work of the Court."

The salary limitation of $3,600 was omitted and the Court authorized to fix law clerks' salaries. Current appropriation acts provide that salaries of the Court's officers and employees, except the clerk and reporter, shall be fixed by the Court.

See section 711 et seq. and section 751 et seq., of this title, relating to appointment of law clerks and secretaries to circuit and district judges.

Changes were made in phraseology.

§ 676. Printing and binding

(a) The printing and binding for the Supreme Court, including the printing and binding of individual copies, advance pamphlet installments, and bound volumes, of its decisions, whether requisitioned or ordered by the Court or any of its officers or by any other office or agency, and whether paid for by, or charged to the appropriation for, the Court or any other office or agency, shall be done by the printer or printers whom the Court or the Chief Justice of the United States may select, unless it shall otherwise order.

(b) Whenever advance pamphlet installments and bound volumes of the Court's decisions are printed by a private printer, an adequate number of copies for distribution in accordance with the requirements of section 411 of this title and for sale to the public shall be provided and made available for these purposes in such manner and at such prices as may be determined from time to time by the Supreme Court or the Chief Justice of the United States, in lieu of compliance by the Public Printer and the Superintendent of Documents with the requirements of sections 411 and 412 of this title with respect to such copies. Pending distribution or sale, such copies shall be the property of the United States and shall be held in the custody of the marshal or such other person, organization, or agency, as the Supreme Court or the Chief Justice of the United States may designate.

(June 25, 1948, ch. 646, 62 Stat. 919; May 24, 1949, ch. 139, § 74, 63 Stat. 100; Oct. 31, 1951, ch. 655, § 45, 65 Stat. 725.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., § 354 (Feb. 27, 1925, ch. 364, title II, 43 Stat. 1028; Apr. 29, 1926, ch. 195, title II, 44 Stat. 344; Feb. 24, 1927, ch. 189, title II, 44 Stat. 1194; Feb. 15, 1928, ch. 57, title II, 45 Stat. 79; Jan. 25, 1929, ch. 102, title II, 45 Stat. 1109; Apr. 18, 1930, ch. 184, title II, 46 Stat. 188; Feb. 23, 1931, ch. 280, title II, 46 Stat. 1323; July 1, 1932, ch. 361, title II, 47 Stat. 490; Mar. 1, 1933, ch. 144, title II, 47 Stat. 1382; Apr. 7, 1934, ch. 104, title II, 48 Stat. 539).

The section was expanded to include the printing and binding of the official edition of the court's decisions, thus making possible an economy in the expenditure of Government funds by having the printing and binding done by the same printer.

Subsection (b) of the revised section was supplied to conform to sections 411 and 412 of this title.

1949 ACT

This section corrects a grammatical error in subsection (a) of section 676 of title 28, U.S.C.

AMENDMENTS

1951—Subsec. (b). Act Oct. 31, 1951, inserted "of this title" in two places.

1949—Subsec. (a). Act May 24, 1949, inserted "whom" between "printers" and "the Court".

§ 677. Administrative Assistant to the Chief Justice

(a) The Chief Justice of the United States may appoint an Administrative Assistant who shall serve at the pleasure of the Chief Justice and shall perform such duties as may be assigned to him by the Chief Justice. The salary payable to the Administrative Assistant shall be fixed by the Chief Justice at a rate which shall not exceed the salary payable to the Director of the Administrative Office of the United States Courts. The Administrative Assistant may elect to bring himself within the same retirement program available to the Director of the Admin-

istrative Office of the United States Courts, as provided by section 611 of this title, by filing a written election with the Chief Justice within the time and in the manner prescribed by section 611.

(b) The Administrative Assistant, with the approval of the Chief Justice, may appoint and fix the compensation of necessary employees. The Administrative Assistant and his employees shall be deemed employees of the Supreme Court.

(Added Pub. L. 92–238, § 1, Mar. 1, 1972, 86 Stat. 46.)

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.

CROSS REFERENCES

General provisions applicable to court officers and employees, see section 951 et seq. of this title.

United States marshals to be marshals of the courts of appeals, see section 566 of this title.

§ 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.

CROSS REFERENCES

Compensation and expenses of clerks of court, their deputies, etc., see section 604 of this title.

Oath and bond of clerk and deputies, see section 951 of this title.

§ 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.''

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 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.''

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 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.)

EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

APPLICABILITY OF THIS SECTION TO COURT OF APPEALS FOR DISTRICT OF COLUMBIA DURING CONTINUED SERVICE OF MARSHAL FOR COURT IN OFFICE ON APR. 2, 1982

Subsec. (a) of this section not applicable to the Court of Appeals for the District of Columbia during the continued service as Marshal for such Court of any individual who was serving in such office under section 713(c) of this title as of Apr. 2, 1982, see section 415 of Pub. L. 98–620, set out as a note under section 713 of this title.

§ 715. Staff attorneys and technical assistants

(a) The chief judge of each court of appeals, with the approval of the court, may appoint a senior staff attorney, who shall be subject to removal by the chief judge with the approval of the court.

(b) The senior staff attorney, with the approval of the chief judge, may appoint necessary staff attorneys and secretarial and clerical employees in such numbers as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of staff attorneys exceed the number of positions expressly authorized in an annual appropriation Act. The senior staff attorney may remove such staff attorneys and secretarial and clerical employees with the approval of the chief judge.

(c) The chief judge of the Court of Appeals for the Federal Circuit, with the approval of the court, may appoint a senior technical assistant who shall be subject to removal by the chief judge with the approval of the court.

(d) The senior technical assistant, with the approval of the court, may appoint necessary technical assistants in such number as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of technical assistants in the Court of Appeals for the Federal Circuit exceed the number of circuit judges in regular active service within such circuit. The senior technical assistant may remove such technical assistants with the approval of the court.

(Added Pub. L. 97–164, title I, § 120(c)(1), Apr. 2, 1982, 96 Stat. 34.)

EFFECTIVE DATE

Section effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

CHAPTER 49—DISTRICT COURTS

Sec.
751. Clerks.
752. Law clerks and secretaries.
753. Reporters.
754. Receivers of property in different districts.
755. Criers and bailiffs.
756. Power to appoint.

CROSS REFERENCES

General provisions applicable to court officers and employees, see section 951 et seq. of this title.

§ 751. Clerks

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

(b) The clerk may appoint, with the approval of the court, 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 of each district court shall reside in the district for which he is appointed, except that the clerk of the district court for the District of Columbia and the Southern District of New York may reside within twenty miles thereof. The district court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

(d) A clerk of a district court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

This subsection shall not apply to clerks or deputy clerks appointed as United States commissioners pursuant to section 631 of this title.

(e) The clerk of each district court shall pay into the Treasury all fees, costs and other moneys collected by him, except naturalization fees listed in section 742 of Title 8 and uncollected fees not required by Act of Congress to be prepaid.

He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

(f) When the Court of International Trade is sitting in a judicial district, other than the Southern District or Eastern District of New York, the clerk of the district court of such judicial district or an authorized deputy clerk, upon the request of the chief judge of the Court of International Trade and with the approval of such district court, shall act in the district as clerk of the Court of International Trade, as prescribed by the rules and orders of the Court of International Trade for all purposes relating to the civil action then pending before such court.

(June 25, 1948, ch. 646, 62 Stat. 920; Pub. L. 96–417, title V, § 504, Oct. 10, 1980, 94 Stat. 1743.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 6, 7, 8, 524, 557, 567, 568, and 569, sections 644 and 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and section 11–401 of the District of Columbia Code, 1940 ed. (R.S. § 833; June 20, 1874, ch. 328, § 2, 18 Stat. 109; May 28, 1896, ch. 252, § 8, 29 Stat. 181; Apr. 12, 1900, ch. 191, § 34, 31 Stat. 84; Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1901, ch. 854, § 174, 31 Stat. 1218; June 28, 1902, ch. 1301, § 1, 32 Stat. 475; June 30, 1902, ch. 1329, 32 Stat. 527; June 30, 1906, ch. 3914, § 1, 34 Stat. 754; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, §§ 3, 4, 291, 36 Stat. 1087, 1167; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Feb. 26, 1919, ch. 49, §§ 1, 4, 9, 40 Stat. 1182, 1183; Feb. 11, 1921, ch. 46, 41 Stat. 1099; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412, 1413; June 10, 1921, ch. 18, §§ 301, 310, 42 Stat. 23, 25; June 16, 1921, ch. 23, § 1, 42 Stat. 41; July 9, 1921, ch. 42, § 313, 42 Stat. 119; June 1, 1922, ch. 204, Title II, 42 Stat. 614, 616; Jan. 3, 1923, ch. 21 title II, 42 Stat. 1084; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; May 17, 1932, ch. 190, 47 Stat.

158; June 25, 1936, ch. 804, 49 Stat. 1921; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118; June 16, 1938, ch. 465, 52 Stat. 752; June 14, 1941, ch. 203, §§ 1, 2, 55 Stat. 251).

This section consolidates provisions of section 11–401 of the District of Columbia Code, 1940 ed., sections 644 and 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and title 28, U.S.C., 1940 ed., sections 6, 7, 8, 524, 557, 567, 568, and 569 relating to district court clerks. Other provisions of such sections 8 and 524 are incorporated in sections 505 [now 545], 541 [see 561], and 954 of this title and other provisions of such section 11–401 of the District of Columbia Code have been retained in such Code.

Words ''with the approval of the court'' were substituted for ''Attorney General.'' The power to approve appointment of court officers is more properly a judicial one. (See section 711 of this title.)

The provision in section 6 of title 28, U.S.C., 1940 ed., that the clerk be appointed by the district judge or senior judge where there was more than one member of the court was changed and the power vested in the court.

The provisions of section 644 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, relating to compensation of clerks and deputy clerks were omitted as covered by section 604 of this title. Other provisions of said section 644 are incorporated in section 753 of this title.

Provision for similar officers in Alaska, Canal Zone, and the Virgin Islands is made by sections 106, 1349, and 1405y, respectively, of title 48, U.S.C., 1940 ed. A part of section 863 of said title 48, was retained in title 48. For remainder of such section, see Distribution Table.

Words in sections 6 and 7 of title 28, U.S.C., 1940 ed., ''Except as otherwise provided for by law,'' were omitted as obsolete and superfluous.

References in section 7 of title 28, U.S.C., 1940 ed., that the clerk recommend appointment of deputies and clerical assistants were omitted as unnecessary.

The provision that each clerk shall be subject to removal by the court is new. No tenure was provided for by title 28, U.S.C., 1940 ed., but said title contained provisions that other clerks should hold office during the pleasure of the courts which appointed them, and that deputies should hold office during the pleasure of the clerks. The Supreme Court held, in 1839, that a judge of a district court could remove the clerk thereof at pleasure in absence of any law fixing the clerk's tenure. *In re Hennen*, 38 U.S. 230, 13 Pet. 230, 10 L.Ed. 138. (See also, *Meyers v. U.S.*, 47 S.Ct. 21, 272 U.S. 52, 71 L.Ed. 160.)

Words ''circuit or'' after ''Every clerk of the'' in section 524 of title 28, U.S.C., 1940 ed., were omitted because of the abolition of the circuit courts by act Mar. 3, 1911, ch. 231, § 289, 36 Stat. 1167, title 28, U.S.C., 1940 ed., § 430.

The provisions in section 524 of title 28, U.S.C., 1940 ed., that the clerk shall give his personal attention to his official duties, and declaring his office vacant upon removal from his district or neglect of duty, were omitted as covered by the removal provision of this section.

The provision permitting the clerk of the district court for the District of Columbia to reside within twenty miles of the District of Columbia was added because of the relatively small and congested area of the District, as a result of which few federal officers are appointed from the District or reside therein.

The provision in subsection (b) of this section authorizing judges to designate the places for maintaining offices by the clerks was added because of many special provisions, in sections 141–196 of title 28, U.S.C., 1940 ed., for the maintenance of offices by the clerks of the district courts at various particular places. These provisions have been omitted, on revision, as covered by the more general provisions of this section. For residence requirements of United States attorneys and marshals, see sections 505 [now 545] and 541 [see 561] of this title.

A provision that a breach of section 569 of title 28, U.S.C., 1940 ed., should be deemed a vacation of the offender's appointment, was omitted as covered by the removal provision of this section.

The provision of section 569 of title 28, U.S.C., 1940 ed., limiting the compensation of a clerk who is appointed United States commissioner, to $3,000 a year for both offices was omitted as obsolete. The proper adjustment of the compensation of such clerks is an administrative matter more appropriately regulated by the Director of the Administrative Office under the Supervision of the Judicial Conference of the United States. (See section 604 of this title.)

Reference in sections 557, 567 and 568 of title 28, U.S.C., 1940 ed., to accounting by district court clerks in Alaska, were omitted as covered by sections 106 and 107 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, relating to duties of those clerks.

References in sections 557 and 567 of title 28, U.S.C., 1940 ed., to the clerk of the district court of the United States for the District of Columbia, were omitted as covered by words ''The clerk of each district court of the United States.''

As revised, this section is in harmony with the provisions in chapters 45 and 47 of this title relating to accounting by the clerk of the Supreme Court and clerks of the courts of appeals.

Provisions as to time and method of accounting and settlement of accounts were omitted as covered by chapter 41 of this title giving the Director of the Administrative Office of the United States Courts supervision over such accounts, and of chapter 2, Audit and Settlement of Accounts, of title 31, U.S.C., 1940 ed., Money and Finance.

Provisions as to particular fees and moneys to be accounted for were omitted as covered by words ''all fees, costs and other moneys.'' Included in such provisions was a provision as to naturalization fees, but a later act, now appearing in section 742 of title 8, U.S.C., 1940 ed., Aliens and Nationality, provided a different method of accounting and an exception expressly referring to such section was inserted in this section.

Changes were made in phraseology.

REFERENCES IN TEXT

Section 742 of Title 8, referred to in subsec. (e), was repealed by act June 27, 1952, ch. 477, title IV, § 403(a)(42), 66 Stat. 280. See section 1455 of Title 8, Aliens and Nationality.

AMENDMENTS

1980—Subsec. (f). Pub. L. 96–417 added subsec. (f).

CHANGE OF NAME

Reference to United States commissioners deemed to be reference to United States magistrates pursuant to Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1108. See chapter 43 (§ 631 et seq.) of this title.

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of this title.

CROSS REFERENCES

Compensation and expenses of clerks, deputies, etc., see section 604 of this title.

Oath and bond of clerks and deputies, see sections 951 and 963 of this title.

Powers and duties of clerks and deputies, see section 956 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

§ 752. Law clerks and secretaries

District judges may appoint necessary law clerks and secretaries subject to any limitation

on the aggregate salaries of such employees which may be imposed by law. 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. 921; Pub. L. 86–221, Sept. 1, 1959, 73 Stat. 452; 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., §§ 5b and 128 (Mar. 3, 1911, ch. 231, § 118b, as added Feb. 17, 1936, ch. 75, 49 Stat. 1140; May 14, 1940, ch. 189, title IV, 54 Stat. 210; June 28, 1941, ch. 258, title IV, 55 Stat. 301; July 2, 1942, ch. 472, title IV, 56 Stat. 504).

This section consolidates provisions of sections 5b and 128 of title 28, U.S.C., 1940 ed., relating to appointment of law clerks for district judges.

Words in section 128 of title 28, U.S.C., 1940 ed., ''but there shall not be appointed more than thirty-five of such law clerks during the first fiscal year of the enactment of this section'' were omitted as executed and obsolete. Words ''Thereafter such number in excess of thirty-five per year shall be limited by necessity of each case as hereinabove provided'' were also deleted as superseded by section 5b of said title and obsolete. The Director of the Administrative Office has expressed such views. Chief judge of the circuit was substituted for senior circuit judge to conform to section 44 of this title.

Provisions of section 128 of title 28, U.S.C., 1940 ed., relating to salary, or compensation of such clerks are incorporated in section 604 of this title. (See reviser's note under that section.)

The provisions in section 5b of title 28, U.S.C., 1940 ed., that district judges shall not appoint more than three law clerks in any one circuit was not repeated in the Judiciary Appropriation Acts, 1944, 1945, and 1946, 57 Stat. 242, 58 Stat. 357, 59 Stat. 196, ch. 129. The Director of the Administrative Office for United States Courts advises that as a matter of fact, more than three law clerks are serving district judges in several of the circuits at the present time. Consequently the limitation is omitted from this section.

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.)

Minor changes were made in phraseology.

SENATE REVISION AMENDMENT

As finally enacted, sections 374c and 374d of Title 28, U.S.C., 1946 ed., which were derived from act July 23, 1947, ch. 300, §§ 1, 2, 61 Stat. 409, were an additional source of this section. Hence, by Senate amendment, the section was changed to conform with such sections, and such act was included in the schedule of repeals. See 80th Congress Senate Report No. 1559.

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.''

1959—Pub. L. 86–221 substituted provision permitting district judges to appoint necessary law clerks and secretaries subject to aggregate salary limitations for provisions permitting a district judge to appoint a secretary and also a law clerk upon certification of necessity by the chief judge of the circuit and permitting the chief judge of a district court having five or more district judges to appoint an assistant secretary.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

§ 753. Reporters

(a) Each district court of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands shall appoint one or more court reporters.

The number of reporters shall be determined by the Judicial Conference of the United States.

The qualifications of such reporters shall be determined by standards formulated by the Judicial Conference. Each reporter shall take an oath faithfully to perform the duties of his office.

Each such court, with the approval of the Director of the Administrative Office of the United States Courts, may appoint additional reporters for temporary service not exceeding three months, when there is more reporting work in the district than can be performed promptly by the authorized number of reporters and the urgency is so great as to render it impracticable to obtain the approval of the Judicial Conference.

If any such court and the Judicial Conference are of the opinion that it is in the public interest that the duties of reporter should be combined with those of any other employee of the court, the Judicial Conference may authorize such a combination and fix the salary for the performance of the duties combined.

(b) Each session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge. The regulations promulgated pursuant to the preceding sentence shall prescribe the types of electronic sound recording or other means which may be used. Proceedings to be recorded under this section include (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall agree specifically to the contrary; and (3) such other proceedings as a judge of the court may direct or as may be required by rule or order of court as[1] may be requested by any party to the proceeding.

The reporter or other individual designated to produce the record shall attach his official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

The reporter or other individual designated to produce the record shall transcribe and certify such parts of the record of proceedings as may be required by any rule or order of court, including all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording as provided in this subsection and the original records so taken

[1] So in original. Probably should be ''or as''.

have been certified by him and filed with the clerk as provided in this subsection. He shall also transcribe and certify such other parts of the record of proceedings as may be required by rule or order of court. Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court, the reporter or other individual designated to produce the record shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request.

The reporter or other designated individual shall promptly delivery to the clerk for the records of the court a certified copy of any transcript so made.

The transcript in any case certified by the reporter or other individual designated to produce the record shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record.

The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge.

(c) The reporters shall be subject to the supervision of the appointing court and the Judicial Conference in the performance of their duties, including dealings with parties requesting transcripts.

(d) The Judicial Conference shall prescribe records which shall be maintained and reports which shall be filed by the reporters. Such records shall be inspected and audited in the same manner as the records and accounts of clerks of the district courts, and may include records showing:

(1) the quantity of transcripts prepared;

(2) the fees charged and the fees collected for transcripts;

(3) any expenses incurred by the reporters in connection with transcripts;

(4) the amount of time the reporters are in attendance upon the courts for the purpose of recording proceedings; and

(5) such other information as the Judicial Conference may require.

(e) Each reporter shall receive an annual salary to be fixed from time to time by the Judicial Conference of the United States. For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter under the preceding sentence. All supplies shall be furnished by the reporter at his own expense.

(f) Each reporter may charge and collect fees for transcripts requested by the parties, including the United States, at rates prescribed by the court subject to the approval of the Judicial Conference. He shall not charge a fee for any copy of a transcript delivered to the clerk for the records of court. Fees for transcripts furnished in criminal proceedings to persons proceeding under the Criminal Justice Act (18 U.S.C. 3006A), or in habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis, shall be paid by the United States out of moneys appropriated for those purposes. Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal. Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous (but presents a substantial question). The reporter may require any party requesting a transcript to prepay the estimated fee in advance except as to transcripts that are to be paid for by the United States.

(g) If, upon the advice of the chief judge of any district court within the circuit, the judicial council of any circuit determines that the number of court reporters provided such district court pursuant to subsection (a) of this section is insufficient to meet temporary demands and needs and that the services of additional court reporters for such district court should be provided the judges of such district court (including the senior judges thereof when such senior judges are performing substantial judicial services for such court) on a contract basis, rather than by appointment of court reporters as otherwise provided in this section, and such judicial council notifies the Director of the Administrative Office, in writing, of such determination, the Director of the Administrative Office is authorized to and shall contract, without regard to section 3709 of the Revised Statutes of the United States, as amended (41 U.S.C. 5), with any suitable person, firm, association, or corporation for the providing of court reporters to serve such district court under such terms and conditions as the Director of the Administrative Office finds, after consultation with the chief judge of the district court, will best serve the needs of such district court.

(June 25, 1948, ch. 646, 62 Stat. 921; Oct. 31, 1951, ch. 655, § 46, 65 Stat. 726; June 28, 1955, ch. 189, § 3(c), 69 Stat. 176; Pub. L. 85–462, § 3(c), June 20, 1958, 72 Stat. 207; Pub. L. 85–508, § 12(e), July 7, 1958, 72 Stat. 348; Pub. L. 86–568, title I, § 116(c), July 1, 1960, 74 Stat. 303; Pub. L. 89–163, Sept. 2, 1965, 79 Stat. 619; Pub. L. 89–167, Sept. 2, 1965, 79 Stat. 647; Pub. L. 91–272, § 14, June 2, 1970, 84 Stat. 298; Pub. L. 91–545, Dec. 11, 1970, 84 Stat. 1412; Pub. L. 97–164, title IV, § 401(a), Apr. 2, 1982, 96 Stat. 56; Pub. L. 104–317, title III, § 305, Oct. 19, 1996, 110 Stat. 3852.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 9a(a), (b), (c), (d), and section 644 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, § 5a, as added Jan. 20, 1944, ch. 3, § 1(a), (b), (c), (d), 58 Stat. 5, 6, 7; Mar. 4, 1921, ch. 161, § 1, 41 Stat.

1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; June 1, 1922, ch. 204, title II, 42 Stat. 614, 616; Jan. 3, 1923, ch. 21, title II, 52 Stat. 1084; Feb. 12, 1925, ch. 220, 43 Stat. 890).

Section consolidates section 9a(a), (b), (c), (d) of title 28, U.S.C., 1940 ed., and part of section 644 of title 48, U.S.C., 1940 ed., relating to reporters.

The provisions of section 644 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, relating to clerks and deputy clerks, were incorporated in section 751 of this title. The provision of said section 644 fixing the salary of the reporter at $1,200 per annum was omitted as inconsistent with this section. Certain other provisions of said section 644 were also omitted. (See reviser's note under section 751 of this title.)

Words ''including the District Court of the United States for the District of Columbia, and the district courts in the territories and insular possessions'' were omitted as covered by ''Each district court in the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands.'' (See reviser's note under section 88 of this title.) The courts in Hawaii and Puerto Rico are district courts of the United States under definitive section 451 of this title.

Words ''for the performance of the duties combined'' were substituted for ''therefor, as provided by subsection (c) hereof, any provision of law to the contrary notwithstanding''.

Subsections (e) and (f) of this section incorporate part of the provisions of subsection 9a(c) of title 28, U.S.C., 1940 ed. The other provisions of said subsection are incorporated in sections 550 [see Prior Provisions note under that section] and 1915 of this title.

The last paragraph of subsection (b) of this section was revised to conform with the language of section 556 of title 28, U.S.C., 1940 ed., providing for inspection of books in the offices of clerks of district courts. Such section 556 will be omitted, however, as more properly coverable by rule of court.

References in Text

The Criminal Justice Act, referred to in subsec. (f), probably means Pub. L. 88–455, Aug. 20, 1964, 78 Stat. 552, as amended, known as the Criminal Justice Act of 1964, which is classified to section 3006A of Title 18, Crimes and Criminal Procedure, and provisions set out as notes under section 3006A of Title 18.

Amendments

1996—Subsec. (e). Pub. L. 104–317 inserted ''For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which a reporter receives a salary at the annual salary rate fixed for a full-time reporter under the preceding sentence.'' after first sentence.

1982—Subsec. (b). Pub. L. 97–164, amended subsec. (b) generally, substituting provisions permitting proceedings to be recorded using electronic sound recording, or any other method, subject to the approval and authorization of the Judicial Conference and of the presiding judge, for provisions requiring that an official court reporter attend each session of the court and every other proceeding designated by rule or order of the court or one of the judges.

1970—Subsec. (e). Pub. L. 91–272, § 14(1), struck out provisions limiting to the $3,000 to $7,630 range the annual salary paid to reporters.

Subsec. (f). Pub. L. 91–545 restricted authorization of United States to pay fees for transcripts furnished in criminal proceedings to transcripts furnished to persons proceeding under the Criminal Justice Act.

Subsec. (g). Pub. L. 91–272, § 14(2), added subsec. (g)

1965—Subsec. (b). Pub. L. 89–163 made provision for recording of proceedings in United States District Courts by means of electronic sound recording devices, made subject to the Judicial Conference the types of electronic sound recording means used by the reporters, made electronic sound recordings of proceedings on arraignment, plea, and sentence in a criminal case when properly certified by the court reporter admissible evidence to establish the record of that part of the proceedings, required the transcribing of arraignments in addition to the criminal proceedings already required to be transcribed, and waived the transcribing requirement for arraignments, pleas, and sentencing proceedings when such proceedings have been electronically recorded and such records certified and filed as provided in this subsection.

Subsec. (f). Pub. L. 89–167 provided for payment by United States of fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis if trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal.

1960—Subsec. (e). Pub. L. 86–568 increased maximum annual salary from $7,095 to $7,630.

1958—Subsec. (a). Pub. L. 85–508 struck out provisions which related to District Court for Territory of Alaska. See section 81A of this title which establishes a United States District Court for State of Alaska.

Subsec. (e). Pub. L. 85–462 increased maximum annual salary from $6,450 to $7,095.

1955—Subsec. (e). Act June 28, 1955, increased maximum annual salary from $6,000 to $6,450.

1951—Subsec. (a). Act Oct. 31, 1951, inserted reference to District Court of Guam in first par.

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 1960 Amendment

Amendment by Pub. L. 86–568 effective on the first day of the first pay period which begins on or after July 1, 1960, see section 122 of Pub. L. 86–568.

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 Pub. L. 85–508, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

Savings Provision

Section 401(b) of Pub. L. 97–164 provided that: ''The regulations promulgated by the Judicial Conference pursuant to subsection (b) of section 753 of title 28, as amended by subsection (a) of this section, shall not take effect before one year after the effective date of this Act [Oct. 1, 1982]. During the one-year period after the date of the enactment of this Act [Apr. 2, 1982], the Judicial Conference shall experiment with the different methods of recording court proceedings. Prior to the effective date of such regulations, the law and regulations in effect the day before the date of enactment of this Act shall remain in full force and effect.''

Termination of United States District Court for the District of the Canal Zone

For termination of the United States District Court for the District of the Canal Zone at end of the ''transition period'', being the 30-month period beginning Oct. 1, 1979, and ending midnight Mar. 31, 1982, see Paragraph 5 of Article XI of the Panama Canal Treaty of 1977 and sections 2101 and 2201 to 2203 of Pub. L. 96–70, title II, Sept. 27, 1979, 93 Stat. 493, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

Salary Limitation for Court Reporters

1967—Pub. L. 90–206, title II, § 213(c), Dec. 16, 1967, 81 Stat. 635, inserted a new salary limitation for court re-

porters effective the first pay period which begins on or after Oct. 1, 1967, which reflected the respective applicable pay increases provided by section 202(a) of Pub. L. 90–206 in corresponding rates of compensation for particular officers and employees of the government.

1966—Pub. L. 89–504, title II, § 202(c), July 18, 1966, 80 Stat. 294, inserted a new salary limitation for court reporters effective the first pay period which begins on or after July 1, 1966, which reflected the respective applicable pay increases provided by section 102(a) of title I of Pub. L. 89–504 in corresponding rates of compensation for particular officers and employees of the government.

1965—Pub. L. 89–301, § 12(c), Oct. 29, 1965, 79 Stat. 1122, inserted a new salary limitation for court reporters which reflected the applicable pay increases provided by section 2(a) of Pub. L. 89–301 in corresponding rates of compensation for particular government officers and employees.

1964—Pub. L. 88–426, title IV, § 402(c), Aug. 14, 1964, 78 Stat. 434, inserted a new salary limitation for court reporters which reflected the applicable pay increases provided by title I of Pub. L. 88–426 in corresponding rates of compensation for particular government officers and employees.

1962—Pub. L. 87–793, title VI, § 1004(c), Oct. 11, 1962, 76 Stat. 866, inserted a new salary limitation for court reporters effective for the pay period beginning on or after Oct. 11, 1962, and ending immediately prior to the first pay period beginning on or after Jan. 1, 1964, and provided for a second salary limitation effective for the first pay period beginning on or after Jan. 1, 1964, which reflected applicable pay increases provided by title II of Pub. L. 87–793 in corresponding rates of compensation for particular government officers and employees.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 775 of this title.

§ 754. Receivers of property in different districts

A receiver appointed in any civil action or proceeding involving property, real, personal or mixed, situated in different districts shall, upon giving bond as required by the court, be vested with complete jurisdiction and control of all such property with the right to take possession thereof.

He shall have capacity to sue in any district without ancillary appointment, and may be sued with respect thereto as provided in section 959 of this title.

Such receiver shall, within ten days after the entry of his order of appointment, file copies of the complaint and such order of appointment in the district court for each district in which property is located. The failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in that district.

(June 25, 1948, ch. 646, 62 Stat. 922.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 117 (Mar. 3, 1911, ch. 231, § 56, 36 Stat. 1102).

Word ''action'' was substituted for ''suit'', in view of Rule 2 of the Federal Rules of Civil Procedure.

Section 117 of title 28, U.S.C., 1940 ed., applied to land or other property of a fixed character lying in different States within the same circuit. Words ''property, real, personal or mixed, situated in different districts'', were inserted to broaden the scope of this section to cover all property in different districts without respect to situs ''within different states within same judicial circuit''.

The revised section permits the receiver appointed by any district court to control all property of the defendant in whatever district the property is situated. The provisions of section 117 of title 28, U.S.C., 1940 ed., for divesting the receiver's jurisdiction and control of property in other districts upon disapproval by the circuit court of appeals or a judge thereof of the circuit embracing the district of appointment was omitted as unnecessary in view of sections 1292 and 2107 of this title. Said section 1292 provides for review of the order of appointment and the directions of the reviewing court will control the receiver.

Provisions of section 117 of title 28, U.S.C., 1940 ed., relating to process are the basis of section 1692 of this title.

Under section 117 of title 28, U.S.C., 1940 ed., failure to file copies of the complaint and order of appointment in any district where part of the property was located divested the receiver of jurisdiction over all the property except that part located in the State where the suit was brought. This has been changed by limiting the exception to the district where the copies are not filed. Obviously the election of the receiver not to take control of property in one district ought not to preclude his control in those districts in which he did file such copies.

Changes were made in phraseology.

FEDERAL RULES OF CIVIL PROCEDURE

Capacity to sue or be sued, see rule 17, Appendix to this title.

CROSS REFERENCES

Mismanagement of property by receiver, criminal penalty, see section 1911 of Title 18, Crimes and Criminal Procedure.

Process and orders affecting property in different districts, see section 1692 of this title.

§ 755. Criers and bailiffs

Each district judge may appoint a crier for the court in which he presides who shall perform also the duties of bailiff and messenger. A crier may perform also the duties of law clerk if he is qualified to do so and the district judge who appointed him designates him to serve as a crier-law clerk. A crier designated to serve as a crier-law clerk shall receive the compensation of a law clerk, but only so much of that compensation as is in excess of the compensation to which he would be entitled as a crier shall be deemed the compensation of a law clerk for the purposes of any limitation imposed by law upon the aggregate salaries of law clerks and secretaries appointed by a district judge.

Each United States marshal may employ, with the approval of the judge, not exceeding four bailiffs as the district judge may determine, to attend the court, maintain order, wait upon the grand and petit juries, and perform such other necessary duties as the judge or marshal may direct.

If the position of crier or bailiff is to be filled by the appointment of a person who has not previously served as either crier or bailiff, preference in the appointment shall be given to a person who has served in the military or naval forces of the United States in time of war and who has been honorably discharged therefrom, if in the opinion of the appointing officer such person is as well qualified as any other available person to perform to the satisfaction of the appointing officer all the duties of the position.

(June 25, 1948, ch. 646, 62 Stat. 923; Pub. L. 89–281, Oct. 21, 1965, 79 Stat. 1012; Pub. L. 100–690, title VII, § 7608(b), Nov. 18, 1988, 102 Stat. 4515.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 9, 595, 596 (R.S. § 715; Mar. 3, 1905, ch. 1487, 33 Stat. 1259; Mar. 3, 1911, ch. 231, § 5, 36 Stat. 1088; June 1, 1922, ch. 204, title II, 42 Stat. 617; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1084; May 28, 1924, ch. 204, title II, 43 Stat. 221; May 14, 1940, ch. 189, title III, 54 Stat. 204; June 28, 1941, ch. 258, title III, 55 Stat. 295; July 2, 1942, ch. 472, title III, 56 Stat. 486; July 1, 1943, ch. 182, title II, 57 Stat. 286; June 28, 1944, ch. 294, title II, 58 Stat. 410; Dec. 7, 1944, ch. 522, §§ 1, 2, 58 Stat. 796; May 21, 1945, ch. 129, title II, 59 Stat. 184).

Section consolidates parts of sections 9, 595, and 596 of title 28, U.S.C., 1940 ed. The other provisions of such sections appear in section 604 of this title.

Compensation of criers and other court attendants, except bailiffs under section 604 of this title, will be fixed by the Director of the Administrative Office of the United States Courts.

AMENDMENTS

1988—Pub. L. 100–690 struck out third par. which provided each bailiff an allowance of $6 a day for services to be paid only for actual attendance when court was in session or judge or jury was present.

1965—Pub. L. 89–281 inserted provisions to first par. permitting a crier to perform duties of law clerk if he is qualified to do so and district judge who appointed him designates him to serve as a crier-law clerk, specifying that a crier-law clerk shall receive compensation of a law clerk, and requiring that only so much of that compensation as is in excess of compensation to which he would be entitled as a crier shall be deemed compensation of a law clerk for purposes of any limitation imposed by law upon aggregate salaries of law clerks and secretaries appointed by a district judge.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 756. Power to appoint

Whenever a majority of the district judges of any district court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment.

(June 25, 1948, ch. 646, 62 Stat. 923.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 375 (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch.29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; May 11, 1944, ch. 192, §§ 1, 3, 58 Stat. 218, 219).

Only part of section 375 of title 28, U.S.C., 1940 ed., appears in this section. The remainder is incorporated in sections 136, 294 and 371 of this title.

The term ''chief judge'' was substituted for ''senior district judge''. (See reviser's note under section 136 of this title.)

Minor changes in phraseology were made.

[CHAPTER 50—OMITTED]

CODIFICATION

Chapter 50, consisting of sections 771 to 775, which was added by Pub. L. 95–598, title II, § 233(a), Nov. 6, 1978, 92 Stat. 2665, and which related to bankruptcy courts, 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.

CHAPTER 51—UNITED STATES COURT OF FEDERAL CLAIMS

Sec.
791. Clerk.
[792, 793. Repealed.]
794. Law clerks and secretaries.
795. Bailiffs and messengers.
796. Reporting of court proceedings.
797. Recall of retired judges.
798. Places of holding court; appointment of special masters.

AMENDMENTS

1992—Pub. L. 102–572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516, substituted ''UNITED STATES COURT OF FEDERAL CLAIMS'' for ''UNITED STATES CLAIMS COURT'' as chapter heading.

1984—Pub. L. 98–620, title IV, § 416(b), Nov. 8, 1984, 98 Stat. 3364, added item 798.

1982—Pub. L. 97–164, title I, § 121(b), (c)(2), (d)(2), (f)(2), (g)(2), Apr. 2, 1982, 96 Stat. 34–36, substituted ''UNITED STATES CLAIMS COURT'' for ''COURT OF CLAIMS'' as chapter heading and, in analysis of sections in the chapter, struck out item 792 ''Commissioners'' substituted ''Law clerks and secretaries'' for ''Stenographers and clerical employees'' in item 794, substituted ''Bailiffs and messengers'' for ''Bailiff and messenger'' in item 795, and substituted ''judges'' for ''commissioners'' in item 797.

1972—Pub. L. 92–375, § 1, Aug. 10, 1972, 86 Stat. 529, added item 797.

1970—Pub. L. 91–272, § 15(b), June 2, 1970, 84 Stat. 298, added item 796.

1954—Act Sept. 3, 1954, ch. 1263, § 40, 68 Stat. 1240, struck out item 793 ''Reporter-commissioners; stenographers''.

CROSS REFERENCES

General provisions applicable to court officers and employees, see section 951 et seq. of this title.

§ 791. Clerk

(a) The United States Court of Federal Claims may appoint a clerk, who shall be subject to removal by the court. The clerk, with the approval of the court, may appoint necessary deputies and employees in such numbers as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies and employees shall be subject to removal by the clerk with the approval of the court.

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

(c) On the first day of every regular session of Congress, the clerk shall transmit to Congress a full and complete statement of all the judgments rendered by the court during the previous year, showing the dates and amounts thereof and the parties in whose favor they were rendered, together with a brief synopsis of the nature of the claims upon which they were rendered, and a statement of the costs taxed in each case.

(June 25, 1948, ch. 646, 62 Stat. 923; Pub. L. 97–164, title I, § 121(a), Apr. 2, 1982, 96 Stat. 34; Pub. L. 102–572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 244, 248, 283a and 289 (Mar. 3, 1911, ch. 231, §§ 139, 143, 183, 36 Stat. 1136, 1142; June 10, 1921, ch. 18, §§ 301, 302, 310, 42 Stat. 23, 25, Mar. 3, 1933, ch. 212, title II, § 19, 47 Stat. 1519; May 10, 1934, ch. 277, § 512(b), 48 Stat. 759).

This section consolidates a part of sections 244 and 248 with sections 283a and 289, all of title 28, U.S.C., 1940 ed.

Provisions in section 248 of title 28, U.S.C., 1940 ed., for distribution by the clerk of copies of the court's decisions is incorporated in section 415 of this title.

Certain provisions of section 244 of title 28, U.S.C., 1940 ed., relating to the bailiff and the chief messenger of the Court of Claims, and powers and duties of the clerk, his deputies and assistants, are incorporated in sections 795 and 956 of this title.

A provision in section 244 of title 28, U.S.C., 1940 ed., relating to the oath of the clerk of such court was omitted as covered by section 951 of this title.

Word ''clerk'' was substituted for ''chief clerk'' to harmonize with such designation of clerks of all other courts.

Provision that such officers shall be under the direction of the court in the performance of their duties was omitted as superfluous.

Provision in section 244 of title 28, U.S.C., 1940 ed., that the clerk and assistant shall be subject to removal by the Court was substituted for the grounds of misconduct or incapacity. This change is in harmony with like provisions as to the clerks of other courts.

Section 289 of title 28, U.S.C., 1940 ed., required the Attorney General to duplicate the reporting to Congress of judgments which are furnished by the clerk. The revised section eliminates such duplication by requiring the clerk to transmit the information to Congress.

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

As revised, this section is consistent with similar provisions as to clerks of district courts and the courts of appeals in chapters 47 and 49 of this title.

Changes in phraseology were made.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Subsec. (a). Pub. L. 97–164 substituted ''The United States Claims Court may appoint a clerk, who shall be subject to removal by the court'' for ''The Court of Claims may appoint a clerk and an assistant clerk, each of whom shall be subject to removal by the court'' and ''The clerk, with the approval of the court, may appoint necessary deputies and employees in such numbers as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies and employees shall be subject to removal by the clerk with the approval of the court'' for ''The court shall report any such removal and the cause thereof to Congress as soon as possible''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

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.

CROSS REFERENCES

Compensation and expenses of clerks of court, their deputies, etc., see section 604 of this title.

Oath and bond of clerks and deputies, see section 951 of this title.

[§ 792. Repealed. Pub. L. 97–164, title I, § 121(b), Apr. 2, 1982, 96 Stat. 34]

Section, acts June 25, 1948, ch. 646, 62 Stat. 923; July 28, 1953, ch. 253, § 4(a), 67 Stat. 226; Sept. 3, 1954, ch. 1263, § 41, 68 Stat. 1240; Aug. 14, 1964, Pub. L. 88–426, title IV, § 403(h), 78 Stat. 434; Oct. 15, 1966, Pub. L. 89–681, § 3, 80 Stat. 959; Dec. 16, 1967, Pub. L. 90–206, title II, § 213(e), 81 Stat. 635; Aug. 9, 1975, Pub. L. 94–82, title II, § 205(b)(7), 89 Stat. 423; July 20, 1977, Pub. L. 95–69, § 3, 91 Stat. 274, provided for appointment by Court of Claims and compensation of sixteen commissioners.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

[§ 793. Repealed. July 28, 1953, ch. 253, § 6, 67 Stat. 226]

Section, act June 25, 1948, ch. 646, 62 Stat. 924, related to appointment of reporter-commissioners by Court of Claims and employment of stenographers therefor.

§ 794. Law clerks and secretaries

The judges of the United States Court of Federal Claims may appoint necessary law clerks and secretaries, in such numbers as the Judicial Conference of the United States may approve for district judges, subject to any limitation of the aggregate salaries of such employees which may be imposed by law. 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. 924; Pub. L. 97–164, title I, § 121(c)(1), Apr. 2, 1982, 96 Stat. 34; Pub. L. 100–702, title X, § 1003(a)(3), Nov. 19, 1988, 102 Stat. 4665; Pub. L. 102–572, title IX, §§ 902(a)(1), 905, Oct. 29, 1992, 106 Stat. 4516, 4517.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 270 (Feb. 24, 1925, ch. 301, § 2, 43 Stat. 965; May 29, 1928, ch. 852, § 711, 45 Stat. 882; June 23, 1930, ch. 573, § 1, 46 Stat. 799; Oct. 16, 1941, ch. 443, 55 Stat. 741).

The first sentence of the revised section makes express provision for appointment of stenographers and necessary clerical employees.

Other provisions of section 270 of title 28, U.S.C., 1940 ed., are incorporated in sections 456 and 792 of this title.

Specific provision for $5 per diem for stenographers is omitted as unnecessary and inconsistent with section 962 of this title. Travel and subsistence allowances of Government employees are governed by sections 822–833 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees.

Changes were made in phraseology.

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' and inserted ''for district judges'' after ''may approve'' in first sentence.

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.''

1982—Pub. L. 97–164 substituted ''Law clerks and secretaries'' for ''Stenographers and clerical employees'' as section catchline and, in text, substituted ''The judges of the United States Claims Court may appoint necessary law clerks and secretaries, in such numbers as the Judicial Conference of the United States may approve, subject to any limitation of the aggregate salaries of such employees which may be imposed by law'' for ''The Court of Claims shall appoint stenographers and other clerical employees in such numbers as may be necessary each of whom shall be subject to removal by the court''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

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.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 795. Bailiffs and messengers

The chief judge of United States Court of Federal Claims, with the approval of the court, may appoint necessary bailiffs and messengers, in such numbers as the Director of the Administrative Office of the United States Courts may approve, each of whom shall be subject to removal by the chief judge, with the approval of the court.

(June 25, 1948, ch. 646, 62 Stat. 924; Pub. L. 97–164, title I, § 121(d)(1), Apr. 2, 1982, 96 Stat. 35; Pub. L. 102–572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 244 (Mar. 3, 1911, ch. 231, § 139, 36 Stat. 1136).

The provision in section 244 of title 28, U.S.C., 1940 ed., that the bailiff should serve 4 years unless sooner removed by the court for cause, was changed by omitting the 4-year tenure and removal ''for cause'' requirement. As revised this section conforms with sections relating to the similar court officers.

Term ''chief messenger'' in section 244 of title 28, U.S.C., 1940 ed., was changed to ''messenger'' as the court has but one messenger.

A provision of section 244 of title 28, U.S.C., 1940 ed., providing for appointment of a clerk and assistant is incorporated in section 791 of this title, and a provision thereof, relating to powers and duties of the clerk, his deputies and assistants, is incorporated in section 956 of this title.

The second paragraph was added to conform with sections 713, 755, and 834 of this title.

Changes were made in phraseology.

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Pub. L. 97–164 substituted ''Bailiffs and messengers'' for ''Bailiff and messenger'' in section catchline and, in text, substituted ''The chief judge of United States Claims Court, with the approval of the court, may appoint necessary bailiffs and messengers, in such numbers as the Director of the Administrative Office of the United States Courts may approve, each of whom shall be subject to removal by the chief judge, with the approval of the court'' for ''The Court of Claims may appoint a bailiff and a messenger who shall be subject to removal by the court'' and struck out provision that the bailiff attend the court, preserve order, and perform such other necessary duties as the court might direct.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

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.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 796. Reporting of court proceedings

Subject to the approval of the United States Court of Federal Claims, the Director of the Administrative Office of the United States Courts is authorized to contract for the reporting of all proceedings had in open court, and in such contract to fix the terms and conditions under which such reporting services shall be performed, including the terms and conditions under which transcripts shall be supplied by the contractor to the court and to other persons, departments, and agencies.

(Added Pub. L. 91–272, § 15(a), June 2, 1970, 84 Stat. 298; amended Pub. L. 97–164, title I, § 121(e), Apr. 2, 1982, 96 Stat. 35; Pub. L. 102–572, title IX, § 902(a)(1), Oct. 29, 1992, 106 Stat. 4516.)

AMENDMENTS

1992—Pub. L. 102–572 substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

1982—Pub. L. 97–164 substituted ''Subject to the approval of the United States Claims Court, the Director of the Administrative Office of the United States Courts'' for ''The Court of Claims''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

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.

§ 797. Recall of retired judges

(a) Any judge of the United States Court of Federal Claims who has retired from regular active service under subchapter III of chapter 83, or chapter 84, of title 5 shall be known and designated as a senior judge and may perform duties as a judge when recalled pursuant to subsection (b) of this section.

(b) The chief judge of the Court of Federal Claims may, whenever he deems it advisable, recall any senior judge, with such judge's consent, to perform such duties as a judge and for such period of time as the chief judge may specify.

(c) Any senior judge performing duties pursuant to this section shall not be counted as a judge for purposes of the number of judgeships authorized by section 171 of this title.

(d) Any senior judge, while performing duties pursuant to this section, shall be paid the same allowances for travel and other expenses as a judge in active service. Such senior judge shall also receive from the Court of Federal Claims supplemental pay in an amount sufficient, when added to his retirement annuity, to equal the salary of a judge in active service for the same period or periods of time. Such supplemental pay shall be paid in the same manner as the salary of a judge.

(Added Pub. L. 92–375, § 2, Aug. 10, 1972, 86 Stat. 529; amended Pub. L. 97–164, title I, § 121(f)(1), Apr. 2, 1982, 96 Stat. 35; Pub. L. 99–651, title II,

§ 202(c), Nov. 14, 1986, 100 Stat. 3648; Pub. L. 102–572, title IX, §§ 902(a), 904(b), Oct. 29, 1992, 106 Stat. 4516, 4517.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–572, § 902(a)(1), substituted ''United States Court of Federal Claims'' for ''United States Claims Court''.

Subsec. (b). Pub. L. 102–572, § 902(a)(2), substituted ''Court of Federal Claims'' for ''Claims Court''.

Subsec. (d). Pub. L. 102–572, §§ 902(a)(2), 904(b), substituted ''Court of Federal Claims'' for ''Claims Court'' and struck out ''civil service'' before ''retirement annuity''.

1986—Subsec. (a). Pub. L. 99–651 inserted reference to chapter 84 of title 5.

1982—Pub. L. 97–164 substituted ''judges'' for ''commissioners'' in section catchline.

Subsec. (a). Pub. L. 97–164 substituted ''Any judge of the United States Claims Court who has retired from regular active service under subchapter III of chapter 83 of title 5 shall be known and designated as a senior judge and may perform duties as a judge when recalled pursuant to subsection (b) of this section'' for ''Any commissioner who has retired from regular active service under the Civil Service Retirement Act shall be known and designated as a senior commissioner and may perform duties as a commissioner when recalled pursuant to subsection (b) of this section''.

Subsec. (b). Pub. L. 97–164 substituted ''The chief judge of the Claims Court may, whenever he deems it advisable, recall any senior judge, with such judge's consent, to perform such duties as a judge and for such period of time as the chief judge may specify'' for ''The United States Court of Claims, whenever it deems such action advisable, may recall any senior commissioner, with the latter's acquiescence, to perform such duties as a commissioner and for such period of time as the court may specify''.

Subsec. (c). Pub. L. 97–164 substituted ''Any senior judge performing duties pursuant to this section shall not be counted as a judge for purposes of the number of judgeships authorized by section 171 of this title'' for ''Any senior commissioner performing duties pursuant to this section shall not be counted as a commissioner for purposes of the number of commissioner positions authorized by section 792 of this title''.

Subsec. (d). Pub. L. 97–164 substituted ''judge'' for ''commissioner'' wherever appearing, ''Such senior judge'' for ''He'', and ''Claims Court'' for ''Court of Claims''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–651 effective Jan. 1, 1987, see section 203 of Pub. L. 99–651, set out as a note under section 155 of this title.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 374, 375 of this title.

§ 798. Places of holding court; appointment of special masters

(a) The United States Court of Federal Claims is authorized to use facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services Administration, shall be made available for trials and other proceedings outside of the District of Columbia.

(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge of the Court of Federal Claims may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.

(c) The chief judge of the Court of Federal Claims may appoint special masters to assist the court in carrying out its functions. Any special masters so appointed shall carry out their responsibilities and be compensated in accordance with procedures set forth in the rules of the court.

(Added Pub. L. 98–620, title IV, § 416(a), Nov. 8, 1984, 98 Stat. 3364; amended Pub. L. 102–572, title IX, §§ 902(a)(2), 906(a), (b), Oct. 29, 1992, 106 Stat. 4516–4518.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–572, § 906(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The United States Claims Court is hereby authorized to utilize facilities and hold court in Washington, District of Columbia, and in four locations outside of the Washington, District of Columbia metropolitan area, for the purpose of conducting trials and such other proceedings as may be appropriate to executing the court's functions. The Director of the Administrative Office of the United States Courts shall designate such locations and provide for such facilities.''

Subsec. (b). Pub. L. 102–572, § 906(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 102–572, §§ 902(a)(2), 906(b)(1), redesignated former subsec. (b) as (c) and substituted ''Court of Federal Claims'' for ''Claims Court''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1292 of this title.

[CHAPTER 53—REPEALED]

[§§ 831 to 834. Repealed. Pub. L. 97–164, title I, § 122(a), Apr. 2, 1982, 96 Stat. 36]

Section 831, act June 25, 1948, ch. 646, 62 Stat. 924, authorized Court of Customs and Patent Appeals to appoint a clerk, assistant clerks, stenographic law clerks, clerical assistants, and other necessary employees, and set out duties of clerk.

Section 832, acts June 25, 1948, ch. 646, 62 Stat. 924; May 24, 1949, ch. 139, § 76, 63 Stat. 101, authorized Court of Customs and Patent Appeals to appoint a marshal and set out duties of that marshal.

Section 833, act June 25, 1948, ch. 646, 62 Stat. 925, authorized Court of Customs and Patent Appeals to appoint a reporter and set out duties of that reporter.

Section 834, act June 25, 1948, ch. 646, 62 Stat. 925, authorized Court of Customs and Patent Appeals to appoint necessary bailiffs and messengers and set out duties of those bailiffs and messengers.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

CHAPTER 55—COURT OF INTERNATIONAL TRADE

Sec.
871. Clerk, chief deputy clerk, assistant clerk, deputies, assistants, and other employees.
872. Criers, bailiffs, and messengers.

AMENDMENTS

1986—Pub. L. 99–466, § 3(b)(3), Oct. 14, 1986, 100 Stat. 1191, struck out item 872 ''Marshal and deputy marshals'' and redesignated item 873 as 872.

1980—Pub. L. 96–417, title V, § 501(16), Oct. 10, 1980, 94 Stat. 1742, substituted in chapter heading ''COURT OF INTERNATIONAL TRADE'' for ''CUSTOMS COURT''.

1959—Pub. L. 86–243, § 1, Sept. 9, 1959, 73 Stat. 474, included chief deputy clerk and assistant clerk in item 871, substituted ''Marshal and deputy marshals'' for ''Marshal; appointment'' in item 872, and added item 873.

1949—Act May 24, 1949, ch. 139, § 77, 63 Stat. 101, inserted ''; appointment'' in item 872.

CROSS REFERENCES

General provisions applicable to court officers and employees, see section 951 et seq. of this title.

§ 871. Clerk, chief deputy clerk, assistant clerk, deputies, assistants, and other employees

The Court of International Trade may appoint a clerk, a chief deputy clerk, an assistant clerk, deputy clerks, and such deputies, assistants, and other employees as may be necessary for the effective dispatch of the business of the court, who shall be subject to removal by the court.

(June 25, 1948, ch. 646, 62 Stat. 925; Pub. L. 86–243, § 1, Sept. 9, 1959, 73 Stat. 474; Pub. L. 96–417, title V, § 501(17), Oct. 10, 1980, 94 Stat. 1742.)

HISTORICAL AND REVISION NOTES

Based on section 6 of title 19, U.S.C., 1940 ed., Customs Duties (May 4, 1923, ch. 251, § 2, 42 Stat. 1453; Jan. 13, 1925, ch. 76, 43 Stat. 748; May 28, 1926, ch. 411, § 1, 44 Stat. 669; June 17, 1930, ch. 497, title IV, §§ 518, 649, 46 Stat. 737, 762).

Section is based on the last two sentences of section 6 of title 19, U.S.C., 1940 ed., which provided for appointment by the Attorney General in conformity with the civil service laws. This and other administrative powers of the Department of Justice with respect to the courts were transferred to the Administrative Office of the United States Courts by section 446 of title 28, U.S.C., 1940 ed., which is section 604 of this title. The revised section vests the power of appointment in the chief judge to conform with section 253 of this title and rules 5 and 22 of the Rules of the Customs Court adopted May 29, 1936.

Changes were made in phraseology.

AMENDMENTS

1980—Pub. L. 96–417 redesignated the Customs Court as the Court of International Trade.

1959—Pub. L. 86–243 included chief deputy clerk and assistant clerk in section catchline, transferred the appointing authority from the chief judge to the Customs Court, provided for appointment of a chief deputy clerk, an assistant clerk and deputy clerks and for power of removal and deleted reference to the civil service laws with respect to appointments.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of this title.

SAVINGS PROVISION

Section 4 of Pub. L. 86–243 provided that: ''Nothing contained in the amendments made by this Act [enacting section 873 and amending this section and sections 253, 550, and 872 of this title] shall be construed to deprive any person serving on the date of enactment of this Act [Sept. 9, 1959] as an officer or employee of the Customs Court of any rights, privileges, or civil service status, if any, to which such person is entitled under the laws of the United States or regulations thereunder.''

CROSS REFERENCES

Compensation and expenses of clerks of court, their deputies, etc., see section 604 of this title.

Oath and bond of clerks and deputies, see section 951 of this title.

§ 872. Criers, bailiffs, and messengers

The Court of International Trade may appoint such criers as it may require for said court, which criers shall also perform the duties of bailiffs and messengers and such other duties as the court directs and shall be subject to removal by the court.

(Added Pub. L. 86–243, § 1, Sept. 9, 1959, 73 Stat. 474, § 873; amended Pub. L. 96–417, title V, § 501(19), Oct. 10, 1980, 94 Stat. 1742; renumbered § 872, Pub. L. 99–466, § 3(b)(2), Oct. 14, 1986, 100 Stat. 1191.)

PRIOR PROVISIONS

A prior section 872, acts June 25, 1948, ch. 646, 62 Stat. 925; May 24, 1949, ch. 139, § 78, 63 Stat. 101; Sept. 9, 1959, Pub. L. 86–243, § 1, 73 Stat. 474; Oct. 10, 1980, Pub. L. 96–417, title V, § 501(18), 94 Stat. 1742, related to a marshal and deputy marshals, prior to repeal by Pub. L. 99–466, §§ 3(b)(1), 4, Oct. 14, 1986, 100 Stat. 1191, effective 60 days after Oct. 14, 1986.

AMENDMENTS

1986—Pub. L. 99–466 renumbered section 873 of this title as this section.

1980—Pub. L. 96–417 redesignated the Customs Court as the Court of International Trade.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as a note under section 251 of this title.

SAVINGS PROVISION

Enactment of section by Pub. L. 86–243 not to deprive Customs Court officers or employees of any rights, privileges, or civil service status, see section 4 of Pub. L. 86–243, set out as a note under section 871 of this title.

[§ 873. Renumbered § 872]

CHAPTER 57—GENERAL PROVISIONS APPLICABLE TO COURT OFFICERS AND EMPLOYEES

Sec.
951. Oath of office of clerks and deputies.

Sec.
[952. Repealed.]
953. Administration of oaths and acknowledgments.
954. Vacancy in clerk position; absence of clerk.
955. Practice of law restricted.
956. Powers and duties of clerks and deputies.
957. Clerks ineligible for certain offices.
958. Persons ineligible as receivers.
959. Trustees and receivers suable; management; State laws.
960. Tax liability.
961. Office expenses of clerks.
[962. Repealed.]
963. Courts defined.

SENATE REVISION AMENDMENT

This chapter was renumbered ''57'', but without change in its section numbers, by Senate amendment. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1996—Pub. L. 104–317, title II, § 204(b), Oct. 19, 1996, 110 Stat. 3850, substituted ''Vacancy in clerk position; absence of clerk'' for ''Death of clerk; duties of deputies'' in item 954.

1972—Pub. L. 92–310, title II, § 206(e)(2), (f)(2), June 6, 1972, 86 Stat. 203, struck out item 952 ''Bonds of clerks and deputies'', and struck out ''and remedies against'' before ''deputies'' in item 954.

1968—Pub. L. 90–623, § 4, Oct. 22, 1968, 82 Stat. 1315, struck out item 962 ''Traveling expenses''.

1949—Act May 24, 1949, ch. 139, § 78a, 63 Stat. 101, struck out ''by clerks'' after ''law'' in item 955.

CROSS REFERENCES

General provisions applicable to court officers and employees, see section 951 et seq. of this title.

§ 951. Oath of office of clerks and deputies

Each clerk of court and his deputies shall take the following oath or affirmation before entering upon their duties: ''I, _____ _____, having been appointed _____, do solemnly swear (or affirm) that I will truly and faithfully enter and record all orders, decrees, judgments and proceedings of such court, and will faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God.''

(June 25, 1948, ch. 646, 62 Stat. 925.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 512 (R.S., § 794; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Section 512 of title 28, U.S.C., 1940 ed., applied only to the Clerk of the Supreme Court and clerks and deputies of the district courts.

This section is applicable to the Supreme Court and to all courts established by act of Congress.

The last sentence of section 512 of title 28, U.S.C., 1940 ed., reading ''The words 'So help me God.' shall be omitted in all cases where an affirmation is admitted instead of an oath,'' was omitted as unnecessary because on affirmation such words would not be included. As revised, the section conforms with section 453 of this title providing for the form of judicial oath.

Minor changes were made in phraseology.

[§ 952. Repealed. Pub. L. 92–310, title II, § 206(e)(1), June 6, 1972, 86 Stat. 203]

Section, act June 25, 1948, ch. 646, 62 Stat. 926, related to bonds of clerks and deputies.

§ 953. Administration of oaths and acknowledgments

Each clerk of court and his deputies may administer oaths and affirmations and take acknowledgments.

(June 25, 1948, ch. 646, 62 Stat. 926.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 264, 523 and 525, section 1114(a) of title 26, U.S.C., 1940 ed., Internal Revenue Code, and District of Columbia Code, 1940 ed., § 11–402 (R.S. § 799; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1901, ch. 854, § 178, 31 Stat. 1219; June 30, 1902, ch. 1329, 32 Stat. 527; Mar. 3, 1911, ch. 231, §§ 158, 291, 36 Stat. 1139, 1167; Feb. 10, 1939, ch. 2, § 1114(a), 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, § 504(a)(c), 56 Stat. 957; Feb. 25, 1944, ch. 63, title V, § 503, 58 Stat. 72).

This section consolidates a part of section 525, sections 264 and 523 of title 28, U.S.C., 1940 ed., part of section 1114(a) of title 26, U.S.C., 1940 ed., section 11–402 of the District of Columbia Code, 1940 ed.,

As respects acknowledgments, sections 264, 523 and 525 of title 28, U.S.C., 1940 ed., and section 11–402 of District of Columbia Code, 1940 ed., referred only to the Court of Claims and the District Court for the District of Columbia. However, section 555 of said title 28, before amendment in 1944, provided for the collection of a fee by district court clerks for taking acknowledgments. The 1944 amendment provided for the fixing of fees by the Judicial Conference of the United States. If notaries and other minor officials may take acknowledgments there seems to be no reason why clerks of Federal courts and their deputies should not have such power.

Words ''Except as provided in section 591 of this title,'' in section 525 of title 28, U.S.C., 1940 ed., were omitted. Under such section 591, the provisions of such section 525 were inapplicable to the Territory of Alaska, but a later act of June 6, 1900, ch. 786, § 7, 31 Stat. 324, section 106 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, provided that clerks of the District Court for Alaska should perform the duties required or authorized to be performed by clerks of United States courts in other districts.

Provisions of section 525 of title 28, U.S.C., 1940 ed., relating to United States commissioners are incorporated in section 637 of this title.

Provisions of section 264 of title 28, U.S.C., 1940 ed., and section 1114(a) of title 26, U.S.C., 1940 ed., relating to administration of oaths and acknowledgments by judges, are incorporated in section 459 of this title. For distribution of other provisions of such section 1114(a) of title 26, see Distribution Table.

Changes in phraseology were made.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment, therefore section 1114(a) of Title 26, U.S.C., Internal Revenue Code, was not a part of the source of this section upon final enactment. The Senate amendments also eliminated section 1114(a) of the Internal Revenue Code from the schedule of repeals. See 80th Congress Senate Report No. 1559.

§ 954. Vacancy in clerk position; absence of clerk

When the office of clerk is vacant, the deputy clerks shall perform the duties of the clerk in the name of the last person who held that office. When the clerk is incapacitated, absent, or otherwise unavailable to perform official duties, the deputy clerks shall perform the duties of the clerk in the name of the clerk. The court may designate a deputy clerk to act temporarily as clerk of the court in his or her own name.

(June 25, 1948, ch. 646, 62 Stat. 926; Pub. L. 92–310, title II, §206(f), June 6, 1972, 86 Stat. 203; Pub. L. 104–317, title II, §204(a), Oct. 19, 1996, 110 Stat. 3850.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§8, 222 and 327 (Mar. 3, 1911, ch. 231, §§4, 125, 221, 36 Stat. 1087, 1132, 1153).

Section consolidates parts of sections 8, 222 and 327 of title 28, U.S.C., 1940 ed.

Sections 8, 222 and 327 of title 28, U.S.C., 1940 ed., related only to district courts, courts of appeals and the Supreme Court, respectively. This section applies to all Federal courts and is in conformity with section 548 [546] of this title relating to death of a United States marshal.

The provision for continuance of the salary of the clerk of the Supreme Court until his successor is appointed and qualifies was inserted to preserve existing law as declared in the unpublished opinion of Chief Justice Taft, March 23, 1932 (filed in the Department of Justice), with respect to a deceased clerk of the Supreme Court.

Other provisions of sections 8, 222 and 327 of title 28, U.S.C., 1940 ed., are incorporated in sections 671, 711, and 751 of this title.

AMENDMENTS

1996—Pub. L. 104–317 substituted ''Vacancy in clerk position; absence of clerk'' for ''Death of clerk; duties of deputies'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''Upon the death of any clerk of court, his deputy or deputies shall execute the duties of the deceased clerk in his name until his successor is appointed and qualifies.

''The compensation of a deceased clerk of the Supreme Court may be paid to his personal representatives until his successor is appointed and qualifies.''

1972—Pub. L. 92–310 struck out ''and remedies against'' before ''deputies'' in section catchline and repealed provisions which related to the default or misfeasance of a deputy in connection with the bond of a deceased clerk of a Federal court.

§955. Practice of law restricted

The clerk of each court and his deputies and assistants shall not practice law in any court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 926.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§395 and 396 (Mar. 3, 1911, ch. 231, §§273, 274, 36 Stat. 1164).

Section consolidates parts of sections 395 and 396 of title 28, U.S.C., 1940 ed. The remainder, relating to United States marshals and their deputies, is incorporated in section 556 of this title.

Sections 395 and 396 of title 28, U.S.C., 1940 ed., have been extended to include all clerks, deputies, and assistants.

The revised section substitutes as simpler and more appropriate, the prohibition against practice of law ''in any court of the United States.'' (See reviser's note under section 556 of this title.)

For explanation of provisions omitted from sections 395 and 396 of title 28, U.S.C., 1940 ed., also see reviser's note under section 556 of this title.

Changes in phraseology were made.

§956. Powers and duties of clerks and deputies

The clerk of each court and his deputies and assistants shall exercise the powers and perform the duties assigned to them by the court.

(June 25, 1948, ch. 646, 62 Stat. 926.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§221, 244, 304 and 305 (Mar. 3, 1911, ch. 231, §§124, 139, 191, 192, 36 Stat. 1132, 1136, 1144; June 16, 1930, ch. 494, 46 Stat. 589).

This section contains only a part of sections 221, 244, 304 and 305 of title 28, U.S.C., 1940 ed. The other provisions of such sections are incorporated in sections 604, 711, 831, 833, 834, 957 and 1926 of this title.

Sections 221, 244, 304 and 305 of title 28, U.S.C., 1940 ed., related to the clerks of the circuit courts of appeals, the Court of Claims and the Court of Customs and Patent Appeals.

The phrase ''assigned to them by the court'' was substituted for the indefinite provision of section 221 of title 28, U.S.C., 1940 ed., that the clerk of each circuit court of appeals ''shall exercise the same powers and perform the same duties * * * as are exercised and performed by the clerk of the Supreme Court, so far as the same may be applicable.''

This section is new insofar as it affects the Clerk of the Supreme Court and clerks of the district courts and the Customs Court. Existing law does not prescribe the powers and duties of those clerks. The duties of the clerk of the Customs Court have been prescribed by the rules of such court adopted May 29, 1936.

Changes were made in phraseology.

§957. Clerks ineligible for certain offices

A clerk of a court or any of his deputies shall not be appointed a commissioner, master, referee or receiver in any case, unless there are special reasons requiring such appointment which are recited in the order of appointment.

(June 25, 1948, ch. 646, 62 Stat. 926; Pub. L. 95–598, title II, §234, Nov. 6, 1978, 92 Stat. 2667; Pub. L. 97–164, title I, §122(b), Apr. 2, 1982, 96 Stat. 36; Pub. L. 98–353, title I, §109, July 10, 1984, 98 Stat. 342.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§127, 304 (Mar. 3, 1911, ch. 231, §§68, 191, 36 Stat. 1105, 1144).

Section consolidates section 127 with part of 304 of title 28, U.S.C., 1940 ed.

Provisions of section 304 of title 28, U.S.C., 1940 ed., relating to appointment, powers, duties, and compensation of the clerk of the Court of Customs and Patent Appeals, and table of fees are incorporated in sections 604, 831, 956 and 1926 of this title.

Appointment and compensation of masters for district courts, see Rule 53(a) of the Federal Rules of Civil Procedure.

The words ''commissioner'' and ''referee'' did not appear in section 127 of title 28, U.S.C., 1940 ed. They were added to subsection (a) to remove possible ambiguity.

Words ''by the court or any judge thereof'' in section 304 of title 28, U.S.C., 1940 ed., were omitted as surplusage.

Words ''or assistant clerks'' and ''in any case'' were added in subsection (b) to make the section applicable to that officer and consistent with the prohibition in this section against deputies of district court clerks.

Minor changes were made in phraseology.

AMENDMENTS

1984—Pub. L. 98–353 struck out ''district'' before ''court''.

1982—Pub. L. 97–164 struck out designation ''(a)'' before ''A clerk of a district court'' and struck out subsec. (b) which had provided that the clerk or assistant clerk of the Court of Customs and Patent Appeals could not be appointed a commissioner, master, or referee in any case.

1978—Pub. L. 95–598 directed the amendment of section by inserting ''or bankruptcy court'' after ''district court'', which amendment did not become effective pur-

suant 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–353 effective July 10, 1984, see section 122(a) of Pub. L. 98–353, set out as an Effective Date note under section 151 of this title.

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.

CROSS REFERENCES

For provision against the appointment of certain officers as receivers, see section 958 of this title.

§ 958. Persons ineligible as receivers

A person holding any civil or military office or employment under the United States or employed by any justice or judge of the United States shall not at the same time be appointed a receiver in any case in any court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 926.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 527 (May 28, 1896, ch. 252, § 20, 29 Stat. 184; Dec. 28, 1945, ch. 592, 59 Stat. 659).

Provisions of section 527 of title 28, U.S.C., 1940 ed., relating to ineligibility of various persons as United States commissioner appear as section 631 of this title. Words ''janitor of any Government building'' were omitted as covered by words ''person holding any civil or military employment under the United States'' used in the revised section.

The general language of the revised section was substituted for the provisions of section 527 of title 28, U.S.C., 1940 ed., enumerating certain officers and employees.

The exception of Alaska by reference to ''section 591 of this title'' in section 527 of title 28, U.S.C., 1940 ed., was omitted as surplusage. Alaska is excluded by reason of the words ''any court of the United States'' which are limited by definitive section 451 of this title.

Changes in phraseology were made.

§ 959. Trustees and receivers suable; management; State laws

(a) Trustees, receivers or managers of any property, including debtors in possession, may be sued, without leave of the court appointing them, with respect to any of their acts or transactions in carrying on business connected with such property. Such actions shall be subject to the general equity power of such court so far as the same may be necessary to the ends of justice, but this shall not deprive a litigant of his right to trial by jury.

(b) Except as provided in section 1166 of title 11, a trustee, receiver or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

(June 25, 1948, ch. 646, 62 Stat. 926; Pub. L. 95–598, title II, § 235, Nov. 6, 1978, 92 Stat. 2667.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 124, 125 (Mar. 3, 1911, ch. 231, §§ 65, 66, 36 Stat. 1104).

Section consolidates part of section 124 of title 28, U.S.C., 1940 ed., with section 125 of the same title. The criminal penalty for violation of said section 124 is incorporated in section 1911 of Title 18, Crimes and Criminal Procedure.

Section was extended and made applicable to trustees and debtors in possession. The provision at the end of subsection (a) for preserving the right to a jury trial was added to clarify the intent of section 125 of title 28, U.S.C., 1940 ed., as construed in *Vany v. Receiver of Toledo, St. L. and K.C. R.R. Co.*, C.C. 1895, 67 F. 379.

Changes in phraseology were made.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–598 substituted ''Except as provided in section 1166 of title 11, a trustee'' for ''A trustee''.

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.

FEDERAL RULES OF CIVIL PROCEDURE

Capacity to sue or be sued, see rule 17, Appendix to this title.

CROSS REFERENCES

Mismanagement of property by receiver, criminal penalty, see section 1911 of Title 18, Crimes and Criminal Procedure.

Process and orders affecting property in different districts, see section 1692 of this title.

Receivers of property in different districts, jurisdiction, see section 754 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 754 of this title.

§ 960. Tax liability

Any officers and agents conducting any business under authority of a United States court shall be subject to all Federal, State and local taxes applicable to such business to the same extent as if it were conducted by an individual or corporation.

(June 25, 1948, ch. 646, 62 Stat. 927.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 124a (June 18, 1934, ch. 585, 48 Stat. 993).

A proviso in section 124a of title 28, U.S.C., 1940 ed., relating to taxes accruing prior to the effective date of the 1934 act, was omitted as obsolete.

References in section 124a of title 28, U.S.C., 1940 ed., to specific officers was omitted as covered by the words ''Any officers.''

Word ''Federal'' was added before ''State'' in recognition of the liability of such officers for Federal taxes under the revenue laws.

Changes in phraseology were made.

§ 961. Office expenses of clerks

Each clerk of court shall be allowed his necessary office expenses when authorized by the Director of the Administrative Office of the United States Courts.

(June 25, 1948, ch. 646, 62 Stat. 927.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 544, 563 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 26, 1919, ch. 49, § 5, 40

Stat. 1182; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates parts of sections 544 and 563 of title 28, U.S.C., 1940 ed. For remainder of such sections, see Distribution Table.

Changes were made in phraseology.

[§962. Repealed. Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 663]

Section, act June 25, 1948, ch. 646, 62 Stat. 927, related to traveling expenses and subsistence for officers and employees of the courts of the United States and of the Administrative Office of the United States Courts.

§963. Courts defined

As used in this chapter, unless the context indicates otherwise, the words ''court'' and ''courts'' include the Supreme Court of the United States and the courts enumerated in section 610 of this title.

(June 25, 1948, ch. 646, 62 Stat. 927.)

HISTORICAL AND REVISION NOTES

This section was included to embrace the Supreme Court and all courts under the supervision of the Administrative Office of the United States Courts. See section 610 of this title and reviser's note thereunder.

CHAPTER 58—UNITED STATES SENTENCING COMMISSION

Sec.
991. United States Sentencing Commission; establishment and purposes.
992. Terms of office; compensation.
993. Powers and duties of Chair.
994. Duties of the Commission.
995. Powers of the Commission.
996. Director and staff.
997. Annual report.
998. Definitions.

AMENDMENTS

1994—Pub. L. 103–322, title XXVIII, §280005(c)(1), Sept. 13, 1994, 108 Stat. 2097, substituted ''Chair'' for ''Chairman'' in item 993.

§991. United States Sentencing Commission; establishment and purposes

(a) There is established as an independent commission in the judicial branch of the United States a United States Sentencing Commission which shall consist of seven voting members and one nonvoting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chair and three of whom shall be designated by the President as Vice Chairs. At least three of the members shall be Federal judges selected after considering a list of six judges recommended to the President by the Judicial Conference of the United States. Not more than four of the members of the Commission shall be members of the same political party, and of the three Vice Chairs, no more than two shall be members of the same political party. The Attorney General, or the Attorney General's designee, shall be an ex officio, nonvoting member of the Commission. The Chair, Vice Chairs, and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.

(b) The purposes of the United States Sentencing Commission are to—

(1) establish sentencing policies and practices for the Federal criminal justice system that—

(A) assure the meeting of the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices; and

(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(Added Pub. L. 98–473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2017; amended Pub. L. 99–22, §1(1), Apr. 15, 1985, 99 Stat. 46; Pub. L. 103–322, title XXVIII, §280005(a), (c)(1), (2), Sept. 13, 1994, 108 Stat. 2096, 2097; Pub. L. 104–294, title VI, §604(b)(11), Oct. 11, 1996, 110 Stat. 3507.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–294 made technical correction to directory language of Pub. L. 103–322. See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103–322, §280005(c)(1), (2), in second sentence, substituted ''Chair'' for ''Chairman'' and in fifth sentence, substituted ''the Attorney General's designee'' for ''his designee''.

Pub. L. 103–322, §280005(a), as amended by Pub. L. 104–294, in second sentence, substituted ''and three of whom shall be designated by the President as Vice Chairs.'' for the period at end, in fourth sentence, substituted '', and of the three Vice Chairs, no more than two shall be members of the same political party.'' for the period at end, and in last sentence, substituted ''Chair, Vice Chairs,'' for ''Chairman''.

1985—Subsec. (a). Pub. L. 99–22 struck out ''in regular active service'' after ''Federal judges''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Chapter effective Oct. 12, 1984, see section 235(a)(1)(B)(i) of Pub. L. 98–473, set out as a note under section 3551 of Title 18, Crimes and Criminal Procedure.

COMPOSITION OF MEMBERS OF COMMISSION DURING FIRST FIVE-YEAR PERIOD

For provisions directing that, notwithstanding the provisions of this section, during the five-year period

following Oct. 12, 1984, the United States Sentencing Commission shall consist of nine members, including two ex officio, nonvoting members, see section 235(b)(5) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 994 of this title.

§ 992. Terms of office; compensation

(a) The voting members of the United States Sentencing Commission shall be appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

(1) two members, including the Chair, serve terms of six years;

(2) three members serve terms of four years; and

(3) two members serve terms of two years.

(b)(1) Subject to paragraph (2)—

(A) no voting member of the Commission may serve more than two full terms; and

(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of such term.

(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

(A) the date on which a successor has taken office; or

(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.

(c) The Chair and Vice Chairs of the Commission shall hold full-time positions and shall be compensated during their terms of office at the annual rate at which judges of the United States courts of appeals are compensated. The voting members of the Commission, other than the Chair and Vice Chairs, shall hold full-time positions until the end of the first six years after the sentencing guidelines go into effect pursuant to section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984, and shall be compensated at the annual rate at which judges of the United States courts of appeals are compensated. Thereafter, the voting members of the Commission, other than the Chair and Vice Chairs,,[1] shall hold part-time positions and shall be paid at the daily rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning the judge's appointment as a Federal judge.

(d) Sections 44(c) and 134(b) of this title (relating to the residence of judges) do not apply to any judge holding a full-time position on the Commission under subsection (c) of this section.

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2018; amended Pub. L. 99–646, §§ 4, 6(a), Nov. 10, 1986, 100 Stat. 3592; Pub. L. 102–349, § 1, Aug. 26, 1992, 106 Stat. 933; Pub. L. 103–322, title XXVIII, § 280005(b), (c)(1), (3), Sept. 13, 1994, 108 Stat. 2096, 2097.)

[1] So in original.

REFERENCES IN TEXT

Section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984, referred to in subsec. (c), is section 235(a)(1)(B)(ii) of Pub. L. 98–473, which is set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–322, § 280005(c)(1), substituted ''Chair'' for ''Chairman''.

Subsec. (c). Pub. L. 103–322, § 280005(b), (c)(3), amended first sentence generally, substituting ''The Chair and Vice Chairs of the Commission shall hold full-time positions and shall be compensated during their terms'' for ''The Chairman of the Commission shall hold a full-time position and shall be compensated during the term'', in second sentence, substituted ''Chair and Vice Chairs'' for ''Chairman'', in third sentence, substituted ''Chair and Vice Chairs,'' for ''Chairman'', and in last sentence, substituted ''the judge's appointment'' for ''his appointment''.

1992—Subsec. (b). Pub. L. 102–349 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''No voting member may serve more than two full terms. A voting member appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.''

1986—Subsec. (c). Pub. L. 99–646, § 4, substituted ''section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984'' for ''section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983''.

Subsec. (d). Pub. L. 99–646, § 6(a), added subsec. (d).

COMMENCEMENT OF TERMS OF FIRST MEMBERS OF COMMISSION

For provisions directing that, for purposes of subsec. (a) of this section, the terms of the first members of the United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to section 235(a)(1)(B)(ii) of Pub. L. 98–473, see section 235(a)(2) of Pub. L. 98–473, both of which are set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

§ 993. Powers and duties of Chair

The Chair shall—

(a) call and preside at meetings of the Commission, which shall be held for at least two weeks in each quarter after the members of the Commission hold part-time positions; and

(b) direct—

(1) the preparation of requests for appropriations for the Commission; and

(2) the use of funds made available to the Commission.

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2019; amended Pub. L. 99–22, § 1(2), Apr. 15, 1985, 99 Stat. 46; Pub. L. 99–646, § 5, Nov. 10, 1986, 100 Stat. 3592; Pub. L. 103–322, title XXVIII, § 280005(c)(1), Sept. 13, 1994, 108 Stat. 2097.)

AMENDMENTS

1994—Pub. L. 103–322 substituted ''Chair'' for ''Chairman'' in section catchline and introductory provisions.

1986—Subsec. (b)(2). Pub. L. 99–646 struck out provision that, before appointment of first Chairman, Administrative Office of the United States Courts may make requests for appropriations for Commission.

1985—Subsec. (b)(2). Pub. L. 99–22 inserted provision authorizing the Administrative Office of the United States Courts to make requests for appropriations for the Commission before the appointment of the first Chairman of the Commission.

§ 994. Duties of the Commission

(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;

(C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term;

(D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively; and

(E) a determination under paragraphs (6) and (11)[1] of section 3563(b) of title 18;

(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

(A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;

(B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;

(C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, and 3582(c) of title 18;

(D) the fine imposition provisions set forth in section 3572 of title 18;

(E) the authority granted under rule 11(e)(2) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and

(F) the temporary release provisions set forth in section 3622 of title 18, and the prerelease custody provisions set forth in section 3624(c) of title 18; and

(3) guidelines or general policy statements regarding the appropriate use of the provisions for revocation of probation set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of supervised release and revocation of supervised release set forth in section 3583(e) of title 18.

(b)(1) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code.

(2) If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than the greater of 25 percent or 6 months, except that, if the minimum term of the range is 30 years or more, the maximum may be life imprisonment.

(c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents[2] of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

(1) the grade of the offense;

(2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

(3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;

(4) the community view of the gravity of the offense;

(5) the public concern generated by the offense;

(6) the deterrent effect a particular sentence may have on the commission of the offense by others; and

(7) the current incidence of the offense in the community and in the Nation as a whole.

(d) The Commission in establishing categories of defendants for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, with respect to a defendant, have any relevance to the nature, extent, place of service, or other incidents[2] of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

(1) age;

(2) education;

(3) vocational skills;

(4) mental and emotional condition to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

(5) physical condition, including drug dependence;

(6) previous employment record;

(7) family ties and responsibilities;

[1] See References in Text note below.

[2] So in original. Probably should be ''incidence''.

(8) community ties;
(9) role in the offense;
(10) criminal history; and
(11) degree of dependence upon criminal activity for a livelihood.

The Commission shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders.

(e) The Commission shall assure that the guidelines and policy statements, in recommending a term of imprisonment or length of a term of imprisonment, reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant.

(f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

(g) The Commission, in promulgating guidelines pursuant to subsection (a)(1) to meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code, shall take into account the nature and capacity of the penal, correctional, and other facilities and services available, and shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter. The sentencing guidelines prescribed under this chapter shall be formulated to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons, as determined by the Commission.

(h) The Commission shall assure that the guidelines specify a sentence to a term of imprisonment at or near the maximum term authorized for categories of defendants in which the defendant is eighteen years old or older and—

(1) has been convicted of a felony that is—
(A) a crime of violence; or
(B) an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, and 959), and the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.); and

(2) has previously been convicted of two or more prior felonies, each of which is—
(A) a crime of violence; or
(B) an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), sections 1002(a), 1005, and 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, and 959), and the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(i) The Commission shall assure that the guidelines specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

(1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions;
(2) committed the offense as part of a pattern of criminal conduct from which the defendant derived a substantial portion of the defendant's income;
(3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity;
(4) committed a crime of violence that constitutes a felony while on release pending trial, sentence, or appeal from a Federal, State, or local felony for which he was ultimately convicted; or
(5) committed a felony that is set forth in section 401 or 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 and 960), and that involved trafficking in a substantial quantity of a controlled substance.

(j) The Commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury.

(k) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.

(*l*) The Commission shall insure that the guidelines promulgated pursuant to subsection (a)(1) reflect—

(1) the appropriateness of imposing an incremental penalty for each offense in a case in which a defendant is convicted of—
(A) multiple offenses committed in the same course of conduct that result in the exercise of ancillary jurisdiction over one or more of the offenses; and
(B) multiple offenses committed at different times, including those cases in which the subsequent offense is a violation of section 3146 (penalty for failure to appear) or is committed while the person is released pursuant to the provisions of section 3147 (penalty for an offense committed while on release) of title 18; and

(2) the general inappropriateness of imposing consecutive terms of imprisonment for an offense of conspiring to commit an offense or soliciting commission of an offense and for an offense that was the sole object of the conspiracy or solicitation.

(m) The Commission shall insure that the guidelines reflect the fact that, in many cases, current sentences do not accurately reflect the seriousness of the offense. This will require that, as a starting point in its development of the initial sets of guidelines for particular categories of cases, the Commission ascertain the average

sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served. The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the purposes of sentencing described in section 3553(a)(2) of title 18, United States Code.

(n) The Commission shall assure that the guidelines reflect the general appropriateness of imposing a lower sentence than would otherwise be imposed, including a sentence that is lower than that established by statute as a minimum sentence, to take into account a defendant's substantial assistance in the investigation or prosecution of another person who has committed an offense.

(*o*) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the Federal criminal justice system. The United States Probation System, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Public Defenders shall submit to the Commission any observations, comments, or questions pertinent to the work of the Commission whenever they believe such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.

(p) The Commission, at or after the beginning of a regular session of Congress, but not later than the first day of May, may promulgate under subsection (a) of this section and submit to Congress amendments to the guidelines and modifications to previously submitted amendments that have not taken effect, including modifications to the effective dates of such amendments. Such an amendment or modification shall be accompanied by a statement of the reasons therefor and shall take effect on a date specified by the Commission, which shall be no earlier than 180 days after being so submitted and no later than the first day of November of the calendar year in which the amendment or modification is submitted, except to the extent that the effective date is revised or the amendment is otherwise modified or disapproved by Act of Congress.

(q) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. Such report shall be based upon consideration of a variety of alternatives, including—

(1) modernization of existing facilities;

(2) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security; and

(3) use of existing Federal facilities, such as those currently within military jurisdiction.

(r) The Commission, not later than two years after the initial set of sentencing guidelines promulgated under subsection (a) goes into effect, and thereafter whenever it finds it advisable, shall recommend to the Congress that it raise or lower the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

(s) The Commission shall give due consideration to any petition filed by a defendant requesting modification of the guidelines utilized in the sentencing of such defendant, on the basis of changed circumstances unrelated to the defendant, including changes in—

(1) the community view of the gravity of the offense;

(2) the public concern generated by the offense; and

(3) the deterrent effect particular sentences may have on the commission of the offense by others.

(t) The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(1)(A) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples. Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.

(u) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify in what circumstances and by what amount the sentences of prisoners serving terms of imprisonment for the offense may be reduced.

(v) The Commission shall ensure that the general policy statements promulgated pursuant to subsection (a)(2) include a policy limiting consecutive terms of imprisonment for an offense involving a violation of a general prohibition and for an offense involving a violation of a specific prohibition encompassed within the general prohibition.

(w) The appropriate judge or officer shall submit to the Commission in connection with each sentence imposed (other than a sentence imposed for a petty offense, as defined in title 18, for which there is no applicable sentencing guideline) a written report of the sentence, the offense for which it is imposed, the age, race, and sex of the offender, information regarding factors made relevant by the guidelines, and such other information as the Commission finds appropriate. The Commission shall submit to Congress at least annually an analysis of these reports and any recommendations for legislation that the Commission concludes is warranted by that analysis.

(x) The provisions of section 553 of title 5, relating to publication in the Federal Register and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.

(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to

the Government of any imprisonment, supervised release, or probation sentence that is ordered.

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2019; amended Pub. L. 99–217, § 3, Dec. 26, 1985, 99 Stat. 1728; Pub. L. 99–363, § 2, July 11, 1986, 100 Stat. 770; Pub. L. 99–570, title I, §§ 1006(b), 1008, Oct. 27, 1986, 100 Stat. 3207–7; Pub. L. 99–646, §§ 6(b), 56, Nov. 10, 1986, 100 Stat. 3592, 3611; Pub. L. 100–182, §§ 16(b), 23, Dec. 7, 1987, 101 Stat. 1269, 1271; Pub. L. 100–690, title VII, §§ 7083, 7103(b), 7109, Nov. 18, 1988, 102 Stat. 4408, 4417, 4419; Pub. L. 103–322, title II, § 20403(b), title XXVIII, § 280005(c)(4), title XXXIII, § 330003(f)(1), Sept. 13, 1994, 108 Stat. 1825, 2097, 2141.)

REFERENCES IN TEXT

Paragraphs (6) and (11) of section 3563(b) of title 18, referred to in subsec. (a)(1)(E), were renumbered paragraphs (5) and (10), respectively, of section 3563(b) by Pub. L. 104–132, title II, § 203(2)(B), Apr. 24, 1996, 110 Stat. 1227.

The Federal Rules of Criminal Procedure, referred to in subsec. (a)(2)(E), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The Maritime Drug Law Enforcement Act, referred to in subsec. (h)(1)(B), (2)(B), is Pub. L. 96–350, Sept. 15, 1980, 94 Stat. 1159, as amended, which is classified generally to chapter 38 (§ 1901 et seq.) of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see section 1901 of Title 46, Appendix, and Tables.

AMENDMENTS

1994—Subsec. (h)(1)(B), (2)(B). Pub. L. 103–322, § 330003(f)(1), substituted ''the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)'' for ''section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)''.

Subsec. (i)(2). Pub. L. 103–322, § 280005(c)(4), substituted ''the defendant'' for ''he'' and ''the defendant's'' for ''his''.

Subsec. (y). Pub. L. 103–322, § 20403(b), added subsec. (y).

1988—Subsec. (a)(1)(E). Pub. L. 100–690, § 7103(b), added subpar. (E).

Subsec. (n). Pub. L. 100–690, § 7083, substituted ''as a minimum sentence'' for ''as minimum sentence''.

Subsec. (p). Pub. L. 100–690, § 7109, amended subsec. (p) generally. Prior to amendment, subsec. (p) read as follows: ''The Commission, at or after the beginning of a regular session of Congress but not later than the first day of May, shall report to the Congress any amendments of the guidelines promulgated pursuant to subsection (a)(1), and a report of the reasons therefor, and the amended guidelines shall take effect one hundred and eighty days after the Commission reports them, except to the extent the effective date is enlarged or the guidelines are disapproved or modified by Act of Congress.''

1987—Subsec. (r). Pub. L. 100–182, § 23(a), substituted ''two years'' for ''one year''.

Subsec. (s). Pub. L. 100–182, § 23(b), struck out at end: ''Within one hundred and eighty days of the filing of such petition the Commission shall provide written notice to the defendant whether or not it has approved the petition. If the petition is disapproved the written notice shall contain the reasons for such disapproval. The Commission shall submit to the Congress at least annually an analysis of such written notices.''

Subsec. (w). Pub. L. 100–182, § 16(b), inserted ''(other than a sentence imposed for a petty offense, as defined in title 18, for which there is no applicable sentencing guideline)'' after ''each sentence imposed''.

1986—Subsec. (a)(2)(C). Pub. L. 99–363, § 2(1)(B), amended subpar. (C) generally, inserting ''3564,'' after ''3563(c),''.

Subsec. (a)(2)(D) to (F). Pub. L. 99–363, § 2(1)(A), (C), added subpar. (D) and redesignated former subpars. (D) and (E) as (E) and (F), respectively.

Subsec. (a)(3). Pub. L. 99–570, § 1006(b), inserted ''and revocation of supervised release'' after ''supervised release''.

Pub. L. 99–363, § 2(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''guidelines or general policy statements regarding the appropriate use of the probation revocation provisions set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.''

Subsec. (b). Pub. L. 99–363, § 2(3), designated existing provisions as pars. (1) and (2), and in par. (2) substituted ''the greater of 25 percent or 6 months, except that, if the maximum term of the range is 30 years or more, the maximum may be life imprisonment'' for ''25 per centum''.

Subsec. (b)(2). Pub. L. 99–646, § 56, substituted ''that, if the minimum'' for ''that, if the maximum''.

Subsec. (h). Pub. L. 99–646, § 6(b)(1), (2), substituted ''guidelines specify'' for ''guidelines will specify'' and struck out ''by section 3581(b) of title 18, United States Code,'' after ''term authorized'' in introductory text.

Subsec. (i). Pub. L. 99–646, § 6(b)(2), substituted ''guidelines specify'' for ''guidelines will specify''.

Subsecs. (n) to (t). Pub. L. 99–570, § 1008(1), (2), added subsec. (n) and redesignated former subsecs. (n) to (t) as (*o*) to (u), respectively.

Subsec. (u). Pub. L. 99–646, § 6(b)(3), which directed that subsec. (t) be amended by inserting ''in what circumstances and'' after ''specify'' and striking out ''that are outside the applicable guideline ranges'' after ''terms of imprisonment'', was executed to subsec. (u) to reflect the probable intent of Congress and the intervening redesignation of subsec. (t) as (u) by Pub. L. 99–570.

Pub. L. 99–570, § 1008(2), redesignated subsec. (t) as (u).

Subsecs. (v) to (x). Pub. L. 99–570, § 1008(2), redesignated former subsecs. (u) to (w) as (v) to (x), respectively.

1985—Subsec. (q). Pub. L. 99–217 substituted ''not later than one year after the initial set of sentencing guidelines promulgated under subsection (a) goes into effect'' for ''within three years of the date of enactment of the Sentencing Reform Act of 1983''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100–182, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

CRIME AGAINST INTELLECTUAL PROPERTY; SENTENCING GUIDELINES

Pub. L. 105–147, § 2(g), Dec. 16, 1997, 111 Stat. 2680, provided that:

''(1) Under the authority of the Sentencing Reform Act of 1984 (Public Law 98–473; 98 Stat. 1987) [see Tables for classification] and section 21 of the Sentencing Act of 1987 (Public Law 100–182; 101 Stat. 1271; 18 U.S.C. 994 note) (including the authority to amend the sentencing guidelines and policy statements), the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime against intellectual property (including offenses set forth at section 506(a) of title 17, United States Code, and sections 2319, 2319A, and 2320 of title 18, United States Code) is sufficiently stringent to deter such a crime and to adequately reflect the additional considerations set forth in paragraph (2) of this subsection.

''(2) In implementing paragraph (1), the Sentencing Commission shall ensure that the guidelines provide for consideration of the retail value and quantity of the items with respect to which the crime against intellectual property was committed.''

ENHANCED PENALTY FOR OFFENSES AGAINST PROPERTY AT NATIONAL CEMETERIES

Pub. L. 105–101, Nov. 19, 1997, 111 Stat. 2202, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Veterans' Cemetery Protection Act of 1997'.

''SEC. 2. SENTENCING FOR OFFENSES AGAINST PROPERTY AT NATIONAL CEMETERIES.

''(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines to provide a sentencing enhancement of not less than 2 levels for any offense against the property of a national cemetery.

''(b) COMMISSION DUTIES.—In carrying out subsection (a), the Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of an offense described in that subsection are—

''(1) appropriately severe; and

''(2) reasonably consistent with other relevant directives and with other Federal sentencing guidelines.

''(c) DEFINITION OF NATIONAL CEMETERY.—In this section, the term 'national cemetery' means a cemetery—

''(1) in the National Cemetery System established under section 2400 of title 38, United States Code; or

''(2) under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Interior.''

OFFENSES INVOLVING FLUNITRAZEPAM; AMENDMENT OF SENTENCING GUIDELINES

Pub. L. 104–305, §2(b)(3), Oct. 13, 1996, 110 Stat. 3808, provided that:

''(A) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend, as appropriate, the sentencing guidelines for offenses involving flunitrazepam.

''(B) SUMMARY.—The United States Sentencing Commission shall submit to the Congress—

''(i) a summary of its review under subparagraph (A); and

''(ii) an explanation for any amendment to the sentencing guidelines made under subparagraph (A).

''(C) SERIOUS NATURE OF OFFENSES.—In carrying out this paragraph, the United States Sentencing Commission shall ensure that the sentencing guidelines for offenses involving flunitrazepam reflect the serious nature of such offenses.''

MANUFACTURE OF METHAMPHETAMINE; AMENDMENT OF SENTENCING GUIDELINES

Pub. L. 104–237, title II, §203(b), Oct. 3, 1996, 110 Stat. 3102, provided that: ''The United States Sentencing Commission shall amend the sentencing guidelines to ensure that the manufacture of methamphetamine in violation of section 403(d)(2) of the Controlled Substances Act [21 U.S.C. 843(d)(2)], as added by subsection (a), is treated as a significant violation.''

ENHANCED PENALTY FOR TRAFFICKING IN METHAMPHETAMINE

Pub. L. 104–237, title III, §301, Oct. 3, 1996, 110 Stat. 3105, provided that:

''(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend its guidelines and its policy statements to provide for increased penalties for unlawful manufacturing, importing, exporting, and trafficking of methamphetamine, and other similar offenses, including unlawful possession with intent to commit any of those offenses, and attempt and conspiracy to commit any of those offenses. The Commission shall submit to Congress explanations therefor and any additional policy recommendations for combating methamphetamine offenses.

''(b) IN GENERAL.—In carrying out this section, the Commission shall ensure that the sentencing guidelines and policy statements for offenders convicted of offenses described in subsection (a) and any recommendations submitted under such subsection reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine, including—

''(1) the rapidly growing incidence of methamphetamine abuse and the threat to public safety such abuse poses;

''(2) the high risk of methamphetamine addiction;

''(3) the increased risk of violence associated with methamphetamine trafficking and abuse; and

''(4) the recent increase in the illegal importation of methamphetamine and precursor chemicals.''

ENHANCED PENALTIES FOR OFFENSES INVOLVING CERTAIN LISTED CHEMICALS

Pub. L. 104–237, title III, §302(c), Oct. 3, 1996, 110 Stat. 3105, provided that:

''(1) IN GENERAL.—The United States Sentencing Commission shall, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], as though the authority of that section had not expired, amend the sentencing guidelines to increase by at least two levels the offense level for offenses involving list I chemicals under—

''(A) section 401(d)(1) and (2) of the Controlled Substances Act (21 U.S.C 841(d)(1) and (2)); and

''(B) section 1010(d)(1) and (3) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)(1) and (3)).

''(2) REQUIREMENT.—In carrying out this subsection, the Commission shall ensure that the offense levels for offenses referred to in paragraph (1) are calculated proportionally on the basis of the quantity of controlled substance that reasonably could have been manufactured in a clandestine setting using the quantity of the list I chemical possessed, distributed, imported, or exported.''

ENHANCED PENALTY FOR DANGEROUS HANDLING OF CONTROLLED SUBSTANCES

Pub. L. 104–237, title III, §303, Oct. 3, 1996, 110 Stat. 3106, provided that:

''(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall determine whether the Sentencing Guidelines adequately punish the offenses described in subsection (b) and, if not, promulgate guidelines or amend existing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of such an offense.

''(b) OFFENSE.—The offense referred to in subsection (a) is a violation of section 401(d), 401(g)(1), 403(a)(6), or 403(a)(7) of the Controlled Substances Act (21 U.S.C. 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in which in the commission of the offense the defendant violated—

''(1) subsection (d) or (e) of section 3008 of the Solid Waste Disposal Act [42 U.S.C. 6928(d), (e)] (relating to handling hazardous waste in a manner inconsistent with Federal or applicable State law);

''(2) section 103(b) of the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. 9603(b)] (relating to failure to notify as to the release of a reportable quantity of a hazardous substance into the environment);

''(3) section 301(a), 307(d), 309(c)(2), 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal Water Pollution Control Act [33 U.S.C. 1311(a), 1317(d), 1319(c)(2), (3), 1321(b)(3), (5)] (relating to the unlawful discharge of pollutants or hazardous substances, the operation of a source in violation of a pretreatment standard, and the failure to notify as to the release of a reportable quantity of a hazardous substance into the water); or

''(4) section 5124 of title 49, United States Code (relating to violations of laws and regulations enforced by the Department of Transportation with respect to the transportation of hazardous material).''

ALIEN SMUGGLING; AMENDMENT OF SENTENCING GUIDELINES

Pub. L. 104–208, div. C, title II, § 203(e), Sept. 30, 1996, 110 Stat. 3009–566, provided that:

''(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a)(1)(A) or (2) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), (2)(B)) in accordance with this subsection.

''(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

''(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act [Sept. 30, 1996];

''(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

''(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

''(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling [sic] conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

''(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

''(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

''(ii) uses or brandishes a firearm or other dangerous weapon; or

''(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

''(F) consider whether a downward adjustment is appropriate if the offense is a first offense and involves the smuggling only of the alien's spouse or child; and

''(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

''(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], as though the authority under that Act had not expired.''

FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS; AMENDMENT OF SENTENCING GUIDELINES

Pub. L. 104–208, div. C, title II, § 211(b), Sept. 30, 1996, 110 Stat. 3009–569, provided that:

''(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

''(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

''(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act [Sept. 30, 1996];

''(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

''(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

''(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category; and

''(E) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

''(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], as though the authority under that Act had not expired.''

INVOLUNTARY SERVITUDE; AMENDMENT OF SENTENCING GUIDELINES

Pub. L. 104–208, div. C, title II, § 218(b), (c), Sept. 30, 1996, 110 Stat. 3009–573, 3009–574, provided that:

''(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

''(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act [Sept. 30, 1996]; and

''(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a) [amending sections 1581, 1583, 1584, and 1588 of Title 18, Crimes and Criminal Procedure].

''(c) AMENDMENT OF SENTENCING GUIDELINES.—

''(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

''(A) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

''(B) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

''(C) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

''(i) a large number of victims;

''(ii) the use or threatened use of a dangerous weapon; or

''(iii) a prolonged period of peonage or involuntary servitude.

''(2) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], as though the authority under that Act had not expired.''

PENALTIES FOR CONSPIRING WITH OR ASSISTING AN ALIEN TO COMMIT AN OFFENSE UNDER THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT

Pub. L. 104–208, div. C, title III, §333, Sept. 30, 1996, 110 Stat. 3009–634, provided that:

''(a) REVIEW OF GUIDELINES.—Not later than 6 months after the date of the enactment of this Act [Sept. 30, 1996], the United States Sentencing Commission shall conduct a review of the guidelines applicable to an offender who conspires with, or aids or abets, a person who is not a citizen or national of the United States in committing any offense under section 1010 of the Controlled Substance[s] Import and Export Act (21 U.S.C. 960).

''(b) REVISION OF GUIDELINES.—Following such review, pursuant to section 994(p) of title 28, United States Code, the Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to ensure an appropriately stringent sentence for such offenders.''

ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD

Pub. L. 104–208, div. C, title III, §334, Sept. 30, 1996, 110 Stat. 3009–635, provided that:

''(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section[s] 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994 [Pub. L. 103–322].

''(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code[,] to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.''

MANDATORY VICTIM RESTITUTION; AMENDMENT OF SENTENCING GUIDELINES

Pub. L. 104–132, title II, §208, Apr. 24, 1996, 110 Stat. 1240, provided that: ''Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect this subtitle [subtitle A (§§201–211) of title II of Pub. L. 104–132, see Short Title of 1996 Amendment note set out under section 3551 of Title 18, Crimes and Criminal Procedure] and the amendments made by this subtitle.''

INTERNATIONAL TERRORISM; AMENDMENT OF SENTENCING GUIDELINES

Pub. L. 104–132, title VII, §730, Apr. 24, 1996, 110 Stat. 1303, provided that: ''The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.''

DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING FEDERAL INTEREST COMPUTER

Pub. L. 104–132, title VIII, §805, Apr. 24, 1996, 110 Stat. 1305, provided that:

''(a) REVIEW.—Not later than 60 calendar days after the date of enactment of this Act [Apr. 24, 1996], the United States Sentencing Commission shall review the deterrent effect of existing guideline levels as they apply to paragraphs (4) and (5) of section 1030(a) of title 18, United States Code.

''(b) REPORT.—The United States Sentencing Commission shall prepare and transmit a report to the Congress on the findings under the study conducted under subsection (a).

''(c) AMENDMENT OF GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the sentencing guidelines to ensure any individual convicted of a violation of paragraph (4) or (5) of section 1030(a) of title 18, United States Code, is imprisoned for not less than 6 months.''

SEX CRIMES AGAINST MINORS

Pub. L. 104–71, §§1–4, Dec. 23, 1995, 109 Stat. 774, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Sex Crimes Against Children Prevention Act of 1995'.

''SEC. 2. INCREASED PENALTIES FOR CERTAIN CONDUCT INVOLVING THE SEXUAL EXPLOITATION OF CHILDREN.

''The United States Sentencing Commission shall amend the sentencing guidelines to—

''(1) increase the base offense level for an offense under section 2251 of title 18, United States Code, by at least 2 levels; and

''(2) increase the base offense level for an offense under section 2252 of title 18, United States Code, by at least 2 levels.

''SEC. 3. INCREASED PENALTIES FOR USE OF COMPUTERS IN SEXUAL EXPLOITATION OF CHILDREN.

''The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level by at least 2 levels for an offense committed under section 2251(c)(1)(A) or 2252(a) of title 18, United States Code, if a computer was used to transmit the notice or advertisement to the intended recipient or to transport or ship the visual depiction.

''SEC. 4. INCREASED PENALTIES FOR TRANSPORTATION OF CHILDREN WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.

''The United States Sentencing Commission shall amend the sentencing guidelines to increase the base offense level for an offense under section 2423(a) of title 18, United States Code, by at least 3 levels.''

Pub. L. 102–141, title VI, §632, Oct. 28, 1991, 105 Stat. 876, provided that:

''(1) Pursuant to its authority under section 994 of title 28, United States Code, the Sentencing Commission shall promulgate guidelines, or amend existing or proposed guidelines as follows:

''(A) Guideline 2G2.2 to provide a base offense level of not less than 15 and to provide at least a 5 level increase for offenders who have engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

''(B) Guideline 2G2.4 to provide that such guideline shall apply only to offense conduct that involves the simple possession of materials proscribed by chapter 110 of title 18, United States Code and guideline 2G2.2 to provide that such guideline shall apply to offense conduct that involves receipt or trafficking (including, but not limited to transportation, distribution, or shipping).

''(C) Guideline 2G2.4 to provide a base offense level of not less than 13, and to provide at least a 2 level

increase for possessing 10 or more books, magazines, periodicals, films, video tapes or other items containing a visual depiction involving the sexual exploitation of a minor.

''(D) Section 2G3.1 to provide a base offense level of not less than 10.

''(2)(A) Notwithstanding any other provision of law, the Sentencing Commission shall promulgate the amendments mandated in subsection (1) by November 1, 1991, or within 30 days after enactment [Oct. 28, 1991], whichever is later. The amendments to the guidelines promulgated under subsection (1) shall take effect November 1, 1991, or 30 days after enactment, and shall supersede any amendment to the contrary contained in the amendments to the sentencing guidelines submitted to the Congress by the Sentencing Commission on or about May 1, 1991.

''(B) The provisions of section 944(x) [994(x)] of title 28, United States Code, shall not apply to the promulgation or amendment of guidelines under this section.''

Pub. L. 101–647, title III, § 321, Nov. 29, 1990, 104 Stat. 4817, provided that: ''The United States Sentencing Commission shall amend existing guidelines for sentences involving sexual crimes against children, including offenses contained in chapter 109A of title 18, so that more substantial penalties may be imposed if the Commission determines current penalties are inadequate.''

COCAINE AND CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND OTHER UNLAWFUL ACTIVITY; REDUCTION OF SENTENCING DISPARITIES

Pub. L. 104–38, Oct. 30, 1995, 109 Stat. 334, provided that:

''SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

''In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the 'Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary', submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

''SEC. 2. REDUCTION OF SENTENCING DISPARITY.

''(a) RECOMMENDATIONS.—

''(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing [sic] offenses, and attempt and conspiracy to commit any of the forgoing [sic] offenses. The recommendations shall reflect the following considerations—

''(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

''(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

''(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

''(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

''(i) murders or causes serious bodily injury to an individual;

''(ii) uses a dangerous weapon;

''(iii) uses or possesses a firearm;

''(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

''(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

''(vi) knows, or should know, that he is involving an unusually vulnerable person;

''(vii) restrains a victim;

''(viii) traffics in cocaine within 500 feet of a school;

''(ix) obstructs justice;

''(x) has a significant prior criminal record; or

''(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

''(2) RATIO.—The recommendations described in the preceding subsection [probably should be ''paragraph''] shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28 [probably should be ''title 18''] United States Code.

''(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.''

PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV; SENTENCING GUIDELINES

United States Sentencing Commission to conduct study and submit, not later than 6 months after Sept. 13, 1994, report to Committees on the Judiciary of Senate and House of Representatives concerning revision of sentencing guidelines that relate to offenses in which HIV infected individual engages in sexual activity if individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV, see section 14011(c) of Title 42, The Public Health and Welfare.

INCREASED PENALTIES FOR DRUG-DEALING IN ''DRUG-FREE'' ZONES

Pursuant to authority under this section, United States Sentencing Commission to amend sentencing guidelines to provide appropriate enhancement for defendant convicted of violating section 860 of Title 21, Food and Drugs, see section 14051 of Title 42, The Public Health and Welfare.

ENHANCED PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS AND FOR SMUGGLING DRUGS INTO FEDERAL PRISONS

Pursuant to authority under this section, United States Sentencing Commission to amend sentencing guidelines to appropriately enhance penalty for person convicted under section 844 of Title 21, Food and Drugs, involving simple possession of controlled substance within Federal prison or other Federal detention facility, or under section 841(b) of Title 21, involving smuggling of controlled substance into Federal prison or other Federal detention facility or distribution or intended distribution of controlled substance within Federal prison or other Federal detention facility, see section 14052(b) of Title 42, The Public Health and Welfare.

ENHANCED PENALTIES FOR REPEAT SEX OFFENDERS

Section 40111(b) of Pub. L. 103–322 provided that: ''The Sentencing Commission shall implement the amend-

ment made by subsection (a) [enacting section 2247 of Title 18, Crimes and Criminal Procedure] by promulgating amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A [of Title 18] offenses.''

AGGRAVATED SEXUAL ABUSE OR SEXUAL ABUSE; SENTENCING GUIDELINES; REPORT ON FEDERAL RAPE SENTENCING

Section 40112 of Pub. L. 103–322 provided that:

''(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

''(1) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

''(2) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

''(3) The Commission shall review and promulgate amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

''(4) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

''(b) REPORT.—Not later than 180 days after the date of enactment of this Act [Sept. 13, 1994], the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

''(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the rape victim is not known to the defendant;

''(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

''(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.''

APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES; SENTENCING COMMISSION AUTHORITY

Section 80001(b) of Pub. L. 103–322 provided that:

''(1) IN GENERAL.—(A) The United States Sentencing Commission (referred to in this subsection as the 'Commission'), under section 994(a)(1) and (p) of title 28—

''(i) shall promulgate guidelines, or amendments to guidelines, to carry out the purposes of this section [amending section 3553 of Title 18, Crimes and Criminal Procedure, and enacting provisions set out as a note under section 3553 of Title 18] and the amendment made by this section; and

''(ii) may promulgate policy statements, or amendments to policy statements, to assist in the application of this section and that amendment.

''(B) In the case of a defendant for whom the statutorily required minimum sentence is 5 years, such guidelines and amendments to guidelines issued under subparagraph (A) shall call for a guideline range in which the lowest term of imprisonment is at least 24 months.

''(2) PROCEDURES.—If the Commission determines that it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a) [see Effective Date of 1994 Amendment note set out under section 3553 of Title 18], the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], as though the authority under that section had not expired.''

ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME

Section 110501 of Pub. L. 103–322 provided that:

''(a) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a drug trafficking crime (as defined in section 924(c)(2) of title 18, United States Code) if a semiautomatic firearm is involved.

''(b) SEMIAUTOMATIC FIREARM.—In subsection (a), 'semiautomatic firearm' means any repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge.''

ENHANCED PENALTY FOR SECOND OFFENSE OF USING EXPLOSIVE TO COMMIT FELONY

Section 110502 of Pub. L. 103–322 provided that: ''Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate amendments to the sentencing guidelines to appropriately enhance penalties in a case in which a defendant convicted under section 844(h) of title 18, United States Code, has previously been convicted under that section.''

ENHANCED PENALTY FOR USING FIREARM IN COMMISSION OF COUNTERFEITING OR FORGERY

Section 110512 of Pub. L. 103–322 provided that: ''Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of a felony under chapter 25 of title 18, United States Code, if the defendant used or carried a firearm (as defined in section 921(a)(3) of title 18, United States Code) during and in relation to the felony.''

ENHANCED PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS

Section 110513 of Pub. L. 103–322 provided that: ''Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to—

''(1) appropriately enhance penalties in cases in which a defendant convicted under section 922(g) of title 18, United States Code, has 1 prior conviction by any court referred to in section 922(g)(1) of title 18 for a violent felony (as defined in section 924(e)(2)(B) of that title) or a serious drug offense (as defined in section 924(e)(2)(A) of that title); and

''(2) appropriately enhance penalties in cases in which such a defendant has 2 prior convictions for a violent felony (as so defined) or a serious drug offense (as so defined).''

ENHANCED PENALTIES FOR FELONIES PROMOTING INTERNATIONAL TERRORISM

Section 120004 of Pub. L. 103–322 provided that: ''The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appro-

priate enhancement for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.''

ENHANCED PENALTY FOR SOLICITATION OF MINOR TO COMMIT CRIME

Section 140008 of Pub. L. 103–322 provided that:

''(a) DIRECTIVE TO SENTENCING COMMISSION.—(1) The United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant 21 years of age or older who has been convicted of an offense shall receive an appropriate sentence enhancement if the defendant involved a minor in the commission of the offense.

''(2) The Commission shall provide that the guideline enhancement promulgated pursuant to paragraph (1) shall apply for any offense in relation to which the defendant has solicited, procured, recruited, counseled, encouraged, trained, directed, commanded, intimidated, or otherwise used or attempted to use any person less than 18 years of age with the intent that the minor would commit a Federal offense.

''(b) RELEVANT CONSIDERATIONS.—In implementing the directive in subsection (a), the Sentencing Commission shall consider—

''(1) the severity of the crime that the defendant intended the minor to commit;

''(2) the number of minors that the defendant used or attempted to use in relation to the offense;

''(3) the fact that involving a minor in a crime of violence is frequently of even greater seriousness than involving a minor in a drug trafficking offense, for which the guidelines already provide a two-level enhancement; and

''(4) the possible relevance of the proximity in age between the offender and the minor(s) involved in the offense.''

ENHANCED PENALTY FOR POSSESSION OR DISTRIBUTION OF DRUGS AT TRUCK STOPS OR SAFETY REST AREAS

Section 180201(c) of Pub. L. 103–322 provided that: ''Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182] (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide an appropriate enhancement of punishment for a defendant convicted of violating section 409 of the Controlled Substances Act [21 U.S.C. 849], as added by subsection (b).''

CRIMES AGAINST THE ELDERLY; SENTENCING GUIDELINES

Section 240002 of Pub. L. 103–322, as amended by Pub. L. 104–294, title VI, § 604(b)(10), Oct. 11, 1996, 110 Stat. 3507, provided that:

''(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 [chapter II (§§ 211–239) of title II) of Pub. L. 98–473, see Short Title note set out under section 3551 of Title 18, Crimes and Criminal Procedure] and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182, set out below] (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

''(b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

''(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

''(2) the guidelines take appropriate account of the vulnerability of the victim; and

''(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

''(c) DEFINITIONS.—In this section—

''(1) 'crime of violence' means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code.

''(2) 'elderly victim' means a victim who is 65 years of age or older at the time of an offense.''

ENHANCED PENALTIES FOR FRAUD AGAINST OLDER VICTIMS; REPORT TO CONGRESS

Section 250003 of Pub. L. 103–322 provided that:

''(a) REVIEW.—The United States Sentencing Commission shall review and, if necessary, amend the sentencing guidelines to ensure that victim related adjustments for fraud offenses against older victims over the age of 55 are adequate.

''(b) REPORT.—Not later than 180 days after the date of enactment of this Act [Sept. 13, 1994], the Sentencing Commission shall report to Congress the result of its review under subsection (a).''

ENHANCED PENALTY FOR HATE CRIMES

Section 280003 of Pub. L. 103–322 provided that:

''(a) DEFINITION.—In this section, 'hate crime' means a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

''(b) SENTENCING ENHANCEMENT.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall ensure that there is reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances that might justify exceptions.''

INCREASED PENALTIES IN MAJOR BANK CRIME CASES

Pub. L. 101–647, title XXV, § 2507, Nov. 29, 1990, 104 Stat. 4862, provided that:

''(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code, or section 1341 or 1343 affecting a financial institution (as defined in section 20 of title 18, United States Code), shall be assigned not less than offense level 24 under chapter 2 of the sentencing guidelines if the defendant derives more than $1,000,000 in gross receipts from the offense.

''(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the effective date of this section [Nov. 29, 1990], the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.''

GUIDELINES RELATING TO METHAMPHETAMINE OFFENSES

Pub. L. 101–647, title XXVII, § 2701, Nov. 29, 1990, 104 Stat. 4912, provided that: ''The United States Sentencing Commission is instructed to amend the existing guidelines for offenses involving smokable crystal methamphetamine under section 401(b) of the Con-

trolled Substances Act (21 U.S.C. 841(b)) so that convictions for offenses involving smokable crystal methamphetamine will be assigned an offense level under the guidelines which is two levels above that which would have been assigned to the same offense involving other forms of methamphetamine.''

GUIDELINES RELATING TO OFFENSES SUBSTANTIALLY JEOPARDIZING SAFETY AND SOUNDNESS OF FEDERALLY INSURED FINANCIAL INSTITUTIONS

Pub. L. 101–73, title IX, §961(m), Aug. 9, 1989, 103 Stat. 501, provided that: ''Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide for a substantial period of incarceration for a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, that substantially jeopardizes the safety and soundness of a federally insured financial institution.''

PENALTIES FOR IMPORTATION OF CONTROLLED SUBSTANCES BY AIRCRAFT AND OTHER VESSELS

Section 6453 of Pub. L. 100–690 provided that:

''(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1010(a) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)) under circumstances in which—

''(1) an aircraft other than a regularly scheduled commercial air carrier was used to import the controlled substance; or

''(2) the defendant acted as a pilot, copilot, captain, navigator, flight officer, or any other operation officer aboard any craft or vessel carrying a controlled substance,

shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

''(A) two levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth in (A) or (B) [(1) or (2)] above; and

''(B) in no event less than level 26.

''(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section [Nov. 18, 1988], the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.''

ENHANCED PENALTIES FOR DRUG OFFENSES INVOLVING CHILDREN

Section 6454 of Pub. L. 100–690 provided that:

''(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating sections 405, 405A, or 405B of the Controlled Substances Act (21 U.S.C. 845, 845a or 845b) [now 21 U.S.C. 859, 860, 861] involving a person under 18 years of age shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

''(1) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

''(2) in no event less than level 26.

''(b) EFFECTS OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section [Nov. 18, 1988], the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

''(c) MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (a), as promulgated or amended under such subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.''

DRUG OFFENSES WITHIN FEDERAL PRISONS; SENTENCING GUIDELINES

Section 6468(c), (d) of Pub. L. 100–690 provided that:

''(c) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1791(a)(1) of title 18, United States Code, and punishable under section 1791(b)(1) of that title as so redesignated, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

''(1) two levels greater than the level that would have been assigned had the offense not been committed in prison; and

''(2) in no event less than level 26.

''(d) If the sentencing guidelines are amended after the effective date of this section [Nov. 18, 1988], the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.''

COMMON CARRIER OPERATION UNDER INFLUENCE OF ALCOHOL OR DRUGS; SENTENCING GUIDELINES

Section 6482(c) of Pub. L. 100–690 provided that:

''(1) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987 [Pub. L. 100–182, set out below], the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that—

''(A) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which death results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 26; and

''(B) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which serious bodily injury results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 21.

''(2) If the sentencing guidelines are amended after the effective date of this section [Nov. 18, 1988], the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.''

EMERGENCY GUIDELINES PROMULGATION AUTHORITY

Section 21 of Pub. L. 100–182 provided that:

''(a) IN GENERAL.—In the case of—

''(1) an invalidated sentencing guideline;

''(2) the creation of a new offense or amendment of an existing offense; or

''(3) any other reason relating to the application of a previously established sentencing guideline, and determined by the United States Sentencing Commission to be urgent and compelling;

the Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of title 28 and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System a temporary guideline or amendment to an existing guideline, to remain in effect until and during the pendency of the next report to Congress under section 994(p) of title 28, United States Code.

''(b) EXPIRATION OF AUTHORITY.—The authority of the Commission under paragraphs (1) and (2) of subsection (a) shall expire on November 1, 1989. The authority of the Commission to promulgate and distribute guidelines under paragraph (3) of subsection (a) shall expire on May 1, 1988.''

SUBMISSION TO CONGRESS OF INITIAL SENTENCING GUIDELINES

Provisions directing that the United States Sentencing Commission submit to Congress within 30 months of Oct. 12, 1984, the initial sentencing guidelines promulgated pursuant to subsec. (a)(1) of this section, see section 235(a)(1)(B)(i) of Pub. L. 98–473, as amended, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF SENTENCING GUIDELINES

Sentencing guidelines promulgated pursuant to this section effective when U.S. Sentencing Commission has submitted the initial set of sentencing guidelines to Congress, the General Accounting Office has studied and reported to Congress on the guidelines, Congress has examined the guidelines, and section 212(a)(2) of Pub. L. 98–473 takes effect [Nov. 1, 1987], see section 235(a)(1)(B)(ii) of Pub. L. 98–473, as amended, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

STUDIES OF IMPACT AND OPERATION OF SENTENCING GUIDELINE SYSTEM; REPORTING REQUIREMENTS

Section 236 of Pub. L. 98–473 provided that:

''(a)(1) Four years after the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, go into effect, the General Accounting Office shall undertake a study of the guidelines in order to determine their impact and compare the guidelines system with the operation of the previous sentencing and parole release system, and, within six months of the undertaking of such study, report to the Congress the results of its study.

''(2) Within one month of the start of the study required under subsection (a), the United States Sentencing Commission shall submit a report to the General Accounting Office, all appropriate courts, the Department of Justice, and the Congress detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed. The report shall include an evaluation of the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration, and shall be issued by affirmative vote of a majority of the voting members of the Commission.

''(b) The Congress shall review the study submitted pursuant to subsection (a) in order to determine—

''(1) whether the sentencing guideline system has been effective;

''(2) whether any changes should be made in the sentencing guideline system; and

''(3) whether the parole system should be reinstated in some form and the life of the Parole Commission extended.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 995, 998 of this title; title 18 sections 3143, 3552, 3553, 3582, 3583, 3621, 3622, 5037; title 29 sections 504, 1111; title 42 sections 14051, 14052.

§ 995. Powers of the Commission

(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382);

(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chair;

(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(6) without regard to 31 U.S.C. 3324, enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(7) accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services, notwithstanding the provisions of 31 U.S.C. 1342, however, individuals providing such services shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims;

(8) request such information, data, and reports from any Federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

(11) arrange with the head of any other Federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

(12) establish a research and development program within the Commission for the purpose of—

(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and

(B) assisting and serving in a consulting capacity to Federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

(14) publish data concerning the sentencing process;

(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences

to the factors set forth in section 3553(a) of title 18, United States Code;

(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane and rational sentencing policy;

(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties;

(22) perform such other functions as are required to permit Federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the Federal criminal justice system to meet their related responsibilities;

(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and

(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.

(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a)(1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b). The Commission shall, with respect to its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, utilize existing resources of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2024; amended Pub. L. 100–690, title VII, §§ 7104, 7105, 7106(b), Nov. 18, 1988, 102 Stat. 4418; Pub. L. 101–650, title III, § 325(b)(5), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 103–322, title XXVIII, § 280005(c)(1), Sept. 13, 1994, 108 Stat. 2097.)

REFERENCES IN TEXT

The provisions of title 28, United States Code, with respect to tort claims, referred to in subsec. (a)(7), are classified generally to section 1346(b) and chapter 171 (§ 2671 et seq.) of this title.

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103–322 substituted "Chair" for "Chairman".

1990—Subsec. (a)(22). Pub. L. 101–650 struck out "and" after semicolon at end.

1988—Subsec. (a)(2). Pub. L. 100–690, § 7105, substituted "Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382)" for "grade 18 of the General Schedule pay rates (5 U.S.C. 5332)".

Subsec. (a)(23). Pub. L. 100–690, § 7104, added par. (23).

Subsec. (a)(24). Pub. L. 100–690, § 7106(b), added par. (24).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 998 of this title.

§ 996. Director and staff

(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to the Staff Director by the Commission.

(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 45 (Incentive Awards), 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), and 89 (Health Insurance).

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2026; amended Pub. L. 100–690, title VII, § 7106(c), Nov. 18, 1988, 102 Stat. 4418; Pub. L. 101–650, title III, § 325(b)(6), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 103–322, title XXVIII, § 280005(c)(5), Sept. 13, 1994, 108 Stat. 2097.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322 substituted "the Staff Director" for "him" after "assigned to".

1990—Subsec. (b). Pub. L. 101–650 substituted "and 89 (Health Insurance)" for "89 (Health Insurance), and 91 (Conflicts of Interest)".

1988—Subsec. (b). Pub. L. 100–690 inserted reference to chapter 45 (Incentive Awards).

§ 997. Annual report

The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2026.)

§ 998. Definitions

As used in this chapter—

(a) ''Commission'' means the United States Sentencing Commission;

(b) ''Commissioner'' means a member of the United States Sentencing Commission;

(c) ''guidelines'' means the guidelines promulgated by the Commission pursuant to section 994(a) of this title; and

(d) ''rules and regulations'' means rules and regulations promulgated by the Commission pursuant to section 995 of this title.

(Added Pub. L. 98–473, title II, § 217(a), Oct. 12, 1984, 98 Stat. 2026.)

PART IV—JURISDICTION AND VENUE

Chap.		Sec.
81.	**Supreme Court**	**1251**
83.	**Courts of Appeals**	**1291**
85.	**District Courts; Jurisdiction**	**[1] 1331**
87.	**District Courts; Venue**	**1391**
89.	**District Courts; Removal of Cases from State Courts**	**1441**
91.	**United States Court of Federal Claims**	**1491**
[93.	**Repealed.]**	
95.	**Court of International Trade**	**1581**
97.	**Jurisdictional Immunities of Foreign States**	**1602**
99.	**General Provisions**	**1631**

AMENDMENTS

1992—Pub. L. 102–572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516, substituted ''United States Court of Federal Claims'' for ''United States Claims Court'' as item for chapter 91.

1982—Pub. L. 97–164, title I, §§ 133(j)(1), 134, title III, § 301(b), Apr. 2, 1982, 96 Stat. 41, 55, substituted ''United States Claims Court'' for ''Court of Claims'' in item for chapter 91, struck out item for chapter 93 ''Court of Customs and Patent Appeals'', and added item for chapter 99.

1980—Pub. L. 96–417, title V, § 501(20), Oct. 10, 1980, 94 Stat. 1742, substituted ''Court of International Trade'' for ''Customs Court'' in item for chapter 95.

1978—Pub. L. 95–598, title II, § 241(b), Nov. 6, 1978, 92 Stat. 2671, directed the addition of item for chapter 90, ''District Courts and 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.

1976—Pub. L. 94–583, § 4(b), Oct. 21, 1976, 90 Stat. 2897, added item for chapter 97.

CROSS REFERENCES

District of Columbia courts, jurisdiction, see Title 11 of District of Columbia Code.

Judicial power of the United States, see Const. Art. 3, §§ 1, 2, and U.S. Const. Amend. 11.

Tax Court jurisdiction, see section 7441 et seq. of Title 26, Internal Revenue Code.

[1] So in original. Probably should be ''1330''.

CHAPTER 81—SUPREME COURT

Sec.
1251. Original jurisdiction.
[1252. Repealed.]
1253. Direct appeals from decisions of three-judge courts.
1254. Courts of appeals; certiorari; certified questions.
[1255, 1256. Repealed.]
1257. State courts; certiorari.
1258. Supreme Court of Puerto Rico; certiorari.
1259. Court of Appeals for the Armed Forces; certiorari.

AMENDMENTS

1994—Pub. L. 103–337, div. A, title IX, § 924(d)(2)(B), Oct. 5, 1994, 108 Stat. 2832, substituted ''Court of Appeals for the Armed Forces'' for ''Court of Military Appeals'' in item 1259.

1988—Pub. L. 100–352, §§ 1, 2(c), 5(a), June 27, 1988, 102 Stat. 662, 663, struck out item 1252 ''Direct appeals from decisions invalidating Acts of Congress'', struck out ''appeal;'' after ''certiorari;'' in item 1254, and struck out ''appeal;'' after ''State courts;'' in item 1257 and after ''of Puerto Rico;'' in item 1258.

1983—Pub. L. 98–209, § 10(a)(2), Dec. 6, 1983, 97 Stat. 1406, added item 1259.

1982—Pub. L. 97–164, title I, § 123, Apr. 2, 1982, 96 Stat. 36, struck out item 1255 ''Court of Claims; certiorari; certified questions'' and item 1256 ''Court of Customs and Patent Appeals; certiorari''.

1961—Pub. L. 87–189, § 2, Aug. 30, 1961, 75 Stat. 417, added item 1258.

DEFINITIONS OF COURTS AND JUDGES

Section 32 of act June 25, 1948, as amended by act May 24, 1949, ch. 139, § 127, 63 Stat. 107, provided:

''(a) All laws of the United States in force on September 1, 1948, in which reference is made to a 'circuit court of appeals'; 'senior circuit judge'; 'senior district judge'; 'presiding judge'; 'chief justice', except when reference to the Chief Justice of the United States is intended; or 'justice', except when used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice, are hereby amended by substituting 'court of appeals' for 'circuit court of appeals'; 'chief judge of the circuit' for 'senior circuit judge'; 'chief judge of the district court' for 'senior district judge'; 'chief judge' for 'presiding judge'; 'chief judge' for 'chief justice', except when reference to the Chief Justice of the United States is intended; and 'judge' for 'justice', except when the latter term is used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice.

''(b) All laws of the United States in force on September 1, 1948, in which reference is made to the Supreme Court of the District of Columbia or to the District Court of the United States for the District of Columbia are amended by substituting 'United States District Court for the District of Columbia' for such designations.

''(c) All laws of the United States in force on September 1, 1948, in which reference is made to the 'Conference of Senior Circuit Judges', or to the 'Judicial Conference of Senior Circuit Judges' are amended by substituting 'Judicial Conference of the United States' for such designations.

''(d) This section shall not be construed to amend historical references to courts or judicial offices which have no present or future application to such courts or offices.''

RULES OF THE SUPREME COURT

Procedure generally, on appeal to or in Supreme Court, see Appendix to this title.