

ment procedures and the expeditious conduct of court business.” for “and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.”, and inserted provisions relating to exercise of authority under section 372(c) as the Conference or through standing committee, the holding of hearings, taking of testimony, and the issuance of subpoenas pursuant to rule 45(c) of the Federal Rules of Civil Procedure.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy judges, 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.

1961—Pub. L. 87-253 provided for the summoning to the judicial conference of the chief judge of the Court of Customs and Patent Appeals, and if he is unable to attend, for the summoning of an associate judge of such court.

1958—Pub. L. 85-513 inserted paragraph requiring a continuous study of the operation and effect of the general rules of practice and procedure.

1957—Pub. L. 85-202 provided generally in first three paragraphs for the representation of district judges on the Judicial Conference.

1956—Act July 9, 1956, inserted provisions relating to participation of Court of Claims judges.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 4 of Pub. L. 99-466 provided that: “This Act and the amendments made by this Act [enacting section 335 of this title, amending this section and section 569 of this title, renumbering section 873 of this title as 872, and repealing former section 872 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 14, 1986].”

#### 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

Section 7 of Pub. L. 96-458 provided that: “This Act [amending this section and sections 332, 372, and 604 of this title and enacting provisions set out as notes under this section and section 1 of this title] shall become effective on October 1, 1981.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to requirement that the Chief Justice submit to Congress an annual report of proceedings of the Judicial Conference and recommendations for legislation, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 13 of House Document No. 103-7.

#### DEPOSIT OF FEES FOR PROCESSING OF VIOLATIONS THROUGH CENTRAL VIOLATIONS BUREAU CASES

Pub. L. 108-447, div. B, title III, §308, Dec. 8, 2004, 118 Stat. 2895, as amended by Pub. L. 109-13, div. A, title VI, §6066, May 11, 2005, 119 Stat. 299, provided that: “For fiscal year 2005 and hereafter, such fees as shall be collected for the processing of violations through the Central Violations Bureau cases as prescribed by the Judicial Conference of the United States shall be deposited as offsetting receipts to the fund established under 28 U.S.C. 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of

the Courts of Appeals, District Courts, and Other Judicial Services and the Administrative Offices of the United States Courts.”

#### POLICIES, PROCEDURES, AND METHODOLOGIES USED IN RECOMMENDATION FOR CREATION OF ADDITIONAL FEDERAL JUDGESHIPS; STUDY BY GENERAL ACCOUNTING OFFICE AND REPORT TO CONGRESS

Pub. L. 101-650, title II, §205, Dec. 1, 1990, 104 Stat. 5103, provided that the Comptroller General was to review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to Congress the creation of additional Federal judgeships and, not later than 18 months after Dec. 1, 1990, report the results of the review, with recommendations, to the appropriate congressional committees.

#### FEDERAL COURTS STUDY COMMITTEE

Title I of Pub. L. 100-702, known as the “Federal Courts Study Act”, established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal Judiciary, which was directed to examine problems and issues currently facing the courts of the United States, develop a long-range plan for the future of the Federal Judiciary, including assessments involving alternative methods of dispute resolution, the structure and administration of the Federal court system, methods of resolving intracircuit and intercourt conflicts in the courts of appeals, and the types of disputes resolved by the Federal courts, and to submit, within 15 months after Jan. 1, 1989, a report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deemed advisable, and further provided for membership of the Committee, duties, powers and functions, compensation of members, appropriations, and expiration of the Committee 60 days after submission of report.

### § 332. Judicial councils of circuits

(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate, a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active service.

(2) Members of the council shall serve for terms established by a majority vote of all judges of the circuit in regular active service.

(3) Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section 371(b) of this title may serve as members of the council. Service as a member of a judicial council by a judge retired from regular active service under section 371(b) may not be considered for meeting the requirements of section 371(f)(1)(A), (B), or (C).<sup>1</sup>

(4) No more than one district judge from any one district shall serve simultaneously on the council, unless at least one district judge from each district within the circuit is already serving as a member of the council.

(5) In the event of the death, resignation, retirement under section 371(a) or 372(a) of this title, or disability of a member of the council, a

<sup>1</sup> See References in Text note below.

replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.

(6) Each member of the council shall attend each council meeting unless excused by the chief judge of the circuit.

(b) The council shall be known as the Judicial Council of the circuit.

(c) The chief judge shall submit to the council the semiannual reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d)(1) Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit. Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public. Each council is authorized to hold hearings, to take sworn testimony, and to issue subpoenas and subpoenas duces tecum. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the court of appeals, at the direction of the chief judge of the circuit or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or agency thereof.

(2) All judicial officers and employees of the circuit shall promptly carry into effect all orders of the judicial council. In the case of failure to comply with an order made under this subsection or a subpoena issued under chapter 16 of this title, a judicial council or a special committee appointed under section 353 of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.

(3) Unless an impediment to the administration of justice is involved, regular business of the courts need not be referred to the council.

(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.

(e) The judicial council of each circuit may appoint a circuit executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated to him by the circuit council. The duties delegated to the circuit executive of each circuit may include but need not be limited to:

(1) Exercising administrative control of all nonjudicial activities of the court of appeals of the circuit in which he is appointed.

(2) Administering the personnel system of the court of appeals of the circuit.

(3) Administering the budget of the court of appeals of the circuit.

(4) Maintaining a modern accounting system.

(5) Establishing and maintaining property control records and undertaking a space management program.

(6) Conducting studies relating to the business and administration of the courts within the circuit and preparing appropriate recommendations and reports to the chief judge, the circuit council, and the Judicial Conference.

(7) Collecting, compiling, and analyzing statistical data with a view to the preparation and presentation of reports based on such data as may be directed by the chief judge, the circuit council, and the Administrative Office of the United States Courts.

(8) Representing the circuit as its liaison to the courts of the various States in which the circuit is located, the marshal's office, State and local bar associations, civic groups, news media, and other private and public groups having a reasonable interest in the administration of the circuit.

(9) Arranging and attending meetings of the judges of the circuit and of the circuit council, including preparing the agenda and serving as secretary in all such meetings.

(10) Preparing an annual report to the circuit and to the Administrative Office of the United States Courts for the preceding calendar year, including recommendations for more expeditious disposition of the business of the circuit.

All duties delegated to the circuit executive shall be subject to the general supervision of the chief judge of the circuit.

(f)(1) Each circuit executive shall be paid at a salary to be established by the Judicial Conference of the United States not to exceed the annual rate of level IV of the Executive Schedule pay rates under section 5315 of title 5.

(2) The circuit executive shall serve at the pleasure of the judicial council of the circuit.

(3) The circuit executive may appoint, with the approval of the council, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

(4) The circuit executive and his staff 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 87 (relating to Federal employees' life insurance program), and chapter 89 (relating to Federal employees' health benefits program) of title 5, United States Code.

(g) No later than January 31 of each year, each judicial council shall submit a report to the Administrative Office of the United States Courts on the number and nature of orders entered under this section during the preceding calendar year that relate to judicial misconduct or disability.

(h)(1) The United States Court of Appeals for the Federal Circuit may appoint a circuit execu-

tive, who shall serve at the pleasure of the court. In appointing a circuit executive, the court shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated by the court. The duties delegated to the circuit executive may include the duties specified in subsection (e) of this section, insofar as such duties are applicable to the Court of Appeals for the Federal Circuit.

(2) The circuit executive shall be paid the salary for circuit executives established under subsection (f) of this section.

(3) The circuit executive may appoint, with the approval of the court, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

(4) The circuit executive and staff shall be deemed to be officers and employees of the United States within the meaning of the statutes specified in subsection (f)(4).

(5) The court may appoint either a circuit executive under this subsection or a clerk under section 711 of this title, but not both, or may appoint a combined circuit executive/clerk who shall be paid the salary of a circuit executive.

(June 25, 1948, ch. 646, 62 Stat. 902; Pub. L. 88-176, § 3, Nov. 13, 1963, 77 Stat. 331; Pub. L. 91-647, Jan. 5, 1971, 84 Stat. 1907; Pub. L. 95-598, title II, § 209, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 96-458, § 2(a)-(d)(1), Oct. 15, 1980, 94 Stat. 2035, 2036; Pub. L. 100-459, title IV, § 407, Oct. 1, 1988, 102 Stat. 2213; Pub. L. 100-702, title IV, § 403(a)(2), (b), title X, §§ 1018, 1020(a)(1), Nov. 19, 1988, 102 Stat. 4651, 4670, 4671; Pub. L. 101-650, title III, §§ 323, 325(b)(1), title IV, § 403, Dec. 1, 1990, 104 Stat. 5120, 5121, 5124; Pub. L. 102-198, § 1, Dec. 9, 1991, 105 Stat. 1623; Pub. L. 104-317, title II, § 208, Oct. 19, 1996, 110 Stat. 3851; Pub. L. 106-518, title II, § 205, title III, § 306, Nov. 13, 2000, 114 Stat. 2414, 2418; Pub. L. 106-553, § 1(a)(2) [title III, § 306], Dec. 21, 2000, 114 Stat. 2762, 2762A-85; Pub. L. 107-273, div. C, title I, § 11043(c), Nov. 2, 2002, 116 Stat. 1855.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 448 (Mar. 3, 1911, ch. 231, § 306, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

The final sentence of section 448 of title 28, U.S.C., 1940 ed., excepting from the operation of said section the provisions of existing law as to assignment of district judges outside their districts, was omitted as surplusage, since there is nothing in this section in conflict with section 292 of this title providing for such assignments.

The requirement for attendance of circuit judges, unless excused by the chief judge, was included in conformity with a similar provision of section 331 of this title.

Changes in phraseology were made.

#### REFERENCES IN TEXT

Section 371(f) of this title, referred to in subsec. (a)(3), was redesignated section 371(e) of this title by Pub. L. 106-398, § 1[div. A], title VI, § 654(a)(1)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165.

The Federal Rules of Civil Procedure, referred to in subsec. (d)(1), are set out in the Appendix to this title.

#### AMENDMENTS

2002—Subsec. (d)(2). Pub. L. 107-273, § 11043(c)(1), substituted “chapter 16 of this title” for “section 372(c) of this title” and “section 353 of this title” for “section 372(c)(4) of this title”.

Subsec. (h). Pub. L. 107-273, § 11043(c)(2), struck out subsec. (h) as added by Pub. L. 106-553, which read as follows:

“(h)(1) The United States Court of Appeals for the Federal Circuit may appoint a circuit executive, who shall serve at the pleasure of the court. In appointing a circuit executive, the court shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training. The circuit executive shall exercise such administrative powers and perform such duties as may be delegated by the court. The duties delegated to the circuit executive may include but need not be limited to the duties specified in subsection (e) of this section, insofar as they are applicable to the Court of Appeals for the Federal Circuit.

“(2) The circuit executive shall be paid the salary for circuit executives established under subsection (f) of this section.

“(3) The circuit executive may appoint, with the approval of the court, necessary employees in such number as may be approved by the Director of the Administrative Office of the United States Courts.

“(4) The circuit executive and staff shall be deemed to be officers and employees of the United States within the meaning of the statutes specified in subsection (f)(4).

“(5) The court may appoint either a circuit executive under this subsection or a clerk under section 711 of this title, but not both, or may appoint a combined circuit executive/clerk who shall be paid the salary of a circuit executive.”

2000—Subsec. (a)(3). Pub. L. 106-518, § 205(1), added par. (3) and struck out former par. (3) which read as follows: “Only circuit and district judges in regular active service shall serve as members of the council.”

Subsec. (a)(5). Pub. L. 106-518, § 205(2), substituted “retirement under section 371(a) or 372(a) of this title,” for “retirement.”

Subsec. (h). Pub. L. 106-553 added subsec. (h) relating to circuit executive for United States Court of Appeals for the Federal Circuit, set out second.

Pub. L. 106-518, § 306, added subsec. (h) relating to circuit executive for United States Court of Appeals for the Federal Circuit, set out first.

1996—Subsec. (g). Pub. L. 104-317 added subsec. (g).

1991—Subsec. (a)(1). Pub. L. 102-198 substituted “such number” for “such member” and “service” for “services”.

1990—Subsec. (a)(1). Pub. L. 101-650, § 323(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he may designate, a meeting of the judicial council of the circuit, consisting of—

“(A) the chief judge of the circuit, who shall preside;

“(B) that number of circuit judges fixed by majority vote of all such judges in regular active service; and

“(C) that number of district judges of the circuit fixed by majority vote of all circuit judges in regular active service, except that—

“(i) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is less than six, the number of district judges fixed in accordance with this subparagraph shall be no less than two; and

“(ii) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is six or more, the number of district judges fixed in accordance with this subparagraph shall be no less than three.”

Subsec. (a)(3) to (7). Pub. L. 101-650, § 323(b), redesignated pars. (4) to (7) as (3) to (6), respectively, and

struck out former par. (3) which read as follows: “The number of circuit and district judges fixed in accordance with paragraphs (1)(B) and (1)(C) of this subsection shall be set by order of the court of appeals for the circuit no less than six months prior to a scheduled meeting of the council so constituted.”

Subsec. (d)(2). Pub. L. 101-650, § 403, inserted at end “In the case of failure to comply with an order made under this subsection or a subpoena issued under section 372(c) of this title, a judicial council or a special committee appointed under section 372(c)(4) of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.”

Subsec. (f)(1). Pub. L. 101-650, § 325(b)(1), substituted “under section 5315 of title 5” for “(5 U.S.C. 5316)”.

1988—Subsec. (c). Pub. L. 100-702, § 1020(a)(1), substituted “semiannual” for “semi-annually”.

Subsec. (d)(1). Pub. L. 100-702, § 403(b), inserted after first sentence “Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.”

Subsec. (d)(4). Pub. L. 100-702, § 403(a)(2), added par. (4).

Subsec. (e). Pub. L. 100-702, § 1018(1), substituted “executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training.” for “executive from among persons who shall be certified by the Board of Certification.” in first sentence.

Subsec. (f). Pub. L. 100-702, § 1018(2), designated last four undesignated pars. as pars. (1) to (4), respectively, and struck out former first undesignated par. which related to establishment, functions, and staffing of Board of Certification and setting standards for certification as qualified to be circuit executive.

Pub. L. 100-459 substituted “level IV” for “level V”.  
1980—Pub. L. 96-458, § 2(d)(1), substituted “Judicial councils of circuits” for “Judicial councils” in section catchline.

Subsec. (a). Pub. L. 96-458, § 2(a), in par. (1) designated existing provisions as introductory provision and in such introductory provision substituted “each judicial circuit” for “each circuit”, substituted “a meeting of the judicial council of the circuit, consisting of—” for “a council of the circuit judges for the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.”, and added subpars. (A) to (C) and pars. (2) to (7).

Subsec. (c). Pub. L. 96-458, § 2(b), substituted “semi-annually” for “quarterly”.

Subsec. (d). Pub. L. 96-458, § 2(c), amended subsec. (d) generally, designating existing provisions as par. (1), inserting “and appropriate” after “all necessary”, substituting “justice within its circuit” for “the business of the courts within its circuit”, striking out “The district judges shall promptly carry into effect all orders of the judicial council.” after “within its circuit.”, inserting provisions relating to the holding of hearings, taking of testimony, the issuance of subpoenas and service thereof under the Federal Rules of Civil Procedure, and adding pars. (2) and (3).

1978—Subsec. (d). Pub. L. 95-598 directed the amendment of subsec. (d) by inserting “and bankruptcy judges” after “The district judges”, 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.

1971—Pub. L. 91-647 designated existing four paragraphs as subsecs. (a), (b), (c), and (d), respectively, and added subsecs. (e) and (f).

1963—Pub. L. 88-176 inserted “regular” before “active service” in first sentence.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 407 of Pub. L. 101-650 provided that: “The amendments made by this subtitle [subtitle I (§§ 402-407) of title IV of Pub. L. 101-650, amending this section, sections 372, 453, and 2077 of this title, and provisions set out in the Appendix to Title 5, Government Organization and Employees] shall take effect 90 days after the date of the enactment of this Act [Dec. 1, 1990].”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 403(a)(2), (b) 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.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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.

### § 333. Judicial conferences of circuits

The chief judge of each circuit may summon biennially, and may summon annually, the circuit, district, magistrate, and bankruptcy judges of the circuit, in active service, to a conference at a time and place that he designates, for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. He may preside at such conference, which shall be known as the Judicial Conference of the circuit. The judges of the District Court of Guam, the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands may also be summoned biennially, and may be summoned annually, to the conferences of their respective circuits.

Every judge summoned may attend.

The court of appeals for each circuit shall provide by its rules for representation and active participation at such conference by members of the bar of such circuit.

(June 25, 1948, ch. 646, 62 Stat. 903; Dec. 29, 1950, ch. 1185, 64 Stat. 1128; Oct. 31, 1951, ch. 655, § 38, 65 Stat. 723; Pub. L. 85-508, § 12(e), July 7, 1958, 72 Stat. 348; Pub. L. 95-598, title II, § 210, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 101-650, title III, § 320, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 104-134, title I, § 101[(a)] [title III, § 305], Apr. 26, 1996, 110 Stat. 1321, 1321-36; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 110-406, § 9, Oct. 13, 2008, 122 Stat. 4293.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 449, 450 (Mar. 3, 1911, ch. 231, §§ 307, 308, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

Section consolidates parts of sections 449 and 450 of title 28, U.S.C., 1940 ed.

Said section 450 contained definitions of “courts” and “continental United States,” and directions that sections 444-450 of title 28, U.S.C., 1940 ed., relating to the administration of United States courts, should apply to the courts of appeals, the United States Court of Appeals for the District of Columbia and to the several enumerated district courts of the United States, including those in the Territories and Possessions as well as the Court of Claims, Court of Customs and Patent Appeals, and Customs Court. It also provided that the Chief Justice and associate justices of the Court of Appeals for the District of Columbia should have the pow-

Subsec. (d). Pub. L. 96-458, §2(c), amended subsec. (d) generally, designating existing provisions as par. (1), inserting “and appropriate” after “all necessary”, substituting “justice within its circuit” for “the business of the courts within its circuit”, striking out “The district judges shall promptly carry into effect all orders of the judicial council.” after “within its circuit.”, inserting provisions relating to the holding of hearings, taking of testimony, the issuance of subpoenas and service thereof under the Federal Rules of Civil Procedure, and adding pars. (2) and (3).

1978—Subsec. (d). Pub. L. 95-598 directed the amendment of subsec. (d) by inserting “and bankruptcy judges” after “The district judges”, 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.

1971—Pub. L. 91-647 designated existing four paragraphs as subsecs. (a), (b), (c), and (d), respectively, and added subsecs. (e) and (f).

1963—Pub. L. 88-176 inserted “regular” before “active service” in first sentence.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 407 of Pub. L. 101-650 provided that: “The amendments made by this subtitle [subtitle I (§§402-407) of title IV of Pub. L. 101-650, amending this section, sections 372, 453, and 2077 of this title, and provisions set out in the Appendix to Title 5, Government Organization and Employees] shall take effect 90 days after the date of the enactment of this Act [Dec. 1, 1990].”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 403(a)(2), (b) 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.

#### EFFECTIVE DATE OF 1980 AMENDMENT

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.

### § 333. Judicial conferences of circuits

The chief judge of each circuit may summon biennially, and may summon annually, the circuit, district, magistrate, and bankruptcy judges of the circuit, in active service, to a conference at a time and place that he designates, for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. He may preside at such conference, which shall be known as the Judicial Conference of the circuit. The judges of the District Court of Guam, the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands may also be summoned biennially, and may be summoned annually, to the conferences of their respective circuits.

Every judge summoned may attend.

The court of appeals for each circuit shall provide by its rules for representation and active participation at such conference by members of the bar of such circuit.

(June 25, 1948, ch. 646, 62 Stat. 903; Dec. 29, 1950, ch. 1185, 64 Stat. 1128; Oct. 31, 1951, ch. 655, §38, 65 Stat. 723; Pub. L. 85-508, §12(e), July 7, 1958, 72 Stat. 348; Pub. L. 95-598, title II, §210, Nov. 6, 1978, 92 Stat. 2661; Pub. L. 101-650, title III, §320, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 104-134, title I, §101(a) [title III, §305], Apr. 26, 1996, 110 Stat. 1321, 1321-36; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 110-406, §9, Oct. 13, 2008, 122 Stat. 4293.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§449, 450 (Mar. 3, 1911, ch. 231, §§307, 308, as added Aug. 7, 1939, ch. 501, §1, 53 Stat. 1223).

Section consolidates parts of sections 449 and 450 of title 28, U.S.C., 1940 ed.

Said section 450 contained definitions of “courts” and “continental United States,” and directions that sections 444-450 of title 28, U.S.C., 1940 ed., relating to the administration of United States courts, should apply to the courts of appeals, the United States Court of Appeals for the District of Columbia and to the several enumerated district courts of the United States, including those in the Territories and Possessions as well as the Court of Claims, Court of Customs and Patent Appeals, and Customs Court. It also provided that the Chief Justice and associate justices of the Court of Appeals for the District of Columbia should have the powers of the senior judge and circuit judges, respectively, of a circuit court of appeals.

The revised section omits, as surplusage, the definition of “continental United States.” Other provisions of section 450 of title 28, U.S.C., 1940 ed., referred to were omitted as unnecessary in view of section 604 of this title which provides for the powers and duties of the Director of the Administrative Office of the United States Courts. Remaining provisions of said section 450 are incorporated in said section 604 and section 610 of this title.

The provision as to travel and subsistence which was contained in said section 449 of title 28, U.S.C., 1940 ed., is incorporated in section 456 of this title.

#### AMENDMENTS

2008—Pub. L. 110-406 inserted “magistrate,” after “district,” in first par.

1996—Pub. L. 104-134, §101(a) [title III, §305(1)], in first par. substituted “may” for “shall” before “summon biennially”, “preside at such”, and “also be summoned”.

Pub. L. 104-134, §101(a) [title III, §305(2)], in second par. substituted “may” for “shall” before “attend” and struck out “, and unless excused by the chief judge, shall remain throughout the conference” before period at end.

1990—Pub. L. 101-650 substituted “biennially, and may summon annually,” for “annually”, struck out “the United States District Court for the District of the Canal Zone,” after “The judges of”, and substituted “the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands shall also be summoned biennially, and may be summoned annually,” for “and the District Court of the Virgin Islands shall also be summoned annually”.

1978—Pub. L. 95-598 inserted reference to bankruptcy judges.

1958—Pub. L. 85-508 struck out provisions which required judge of District Court for Territory of Alaska to be summoned annually to the conference of his circuit. 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 judge of District Court of Guam in first par.

1950—Act Dec., 29, 1950, provided for the presence of judges of District Courts of Alaska, Canal Zone, and the Virgin Islands at annual conferences within their respective circuits.

#### 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.

#### 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

ference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.

(b) The Court of International Trade shall provide by its rules for representation and active participation at such conference by members of the bar.

(Added Pub. L. 99-466, §2(a), Oct. 14, 1986, 100 Stat. 1190.)

#### EFFECTIVE DATE

Section effective 60 days after Oct. 14, 1986, see section 4 of Pub. L. 99-466, set out as an Effective Date of 1986 Amendment note under section 331 of this title.

### CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

Sec.	
351.	Complaints; judge defined.
352.	Review of complaint by chief judge.
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361.	Reimbursement of expenses.
362.	Other provisions and rules not affected.
363.	Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.
364.	Effect of felony conviction.

#### § 351. Complaints; judge defined

(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term “chief judge”). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

(d) DEFINITIONS.—In this chapter—

(1) the term “judge” means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

(2) the term “complainant” means the person filing a complaint under subsection (a) of this section.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1848.)

#### SEVERABILITY

Pub. L. 107-273, div. C, title I, §11044, Nov. 2, 2002, 116 Stat. 1856, provided that: “If any provision of this subtitle [subtitle C (§§ 11041–11044) of title I of div. C of Pub. L. 107-273, enacting this chapter, amending sections 331, 332, 372, 375, and 604 of this title, and section 7253 of Title 38, Veterans’ Benefits, and enacting provisions set out as a note under section 1 of this title], an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.”

#### § 352. Review of complaint by chief judge

(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

(1) dismiss the complaint—

(A) if the chief judge finds the complaint to be—

(i) not in conformity with section 351(a);

(ii) directly related to the merits of a decision or procedural ruling; or

(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1849.)

### § 353. Special committees

(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1850.)

### § 354. Action by judicial council

(a) ACTIONS UPON RECEIPT OF REPORT.—

(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

(A) may conduct any additional investigation which it considers to be necessary;

(B) may dismiss the complaint; and

(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

(ii) censuring or reprimanding such judge by means of private communication; and

(iii) censuring or reprimanding such judge by means of public announcement.

(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

(b) REFERRAL TO JUDICIAL CONFERENCE.—

(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its

recommendations for appropriate action, to the Judicial Conference of the United States.

(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in conduct—

(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

(B) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1850.)

### § 355. Action by Judicial Conference

(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

(b) IF IMPEACHMENT WARRANTED.—

(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1852.)

### § 356. Subpoena power

(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1852.)

### § 357. Review of orders and actions

(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1853.)

### § 358. Rules

(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—

(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule pro-

mulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1853.)

### § 359. Restrictions

(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1853.)

### § 360. Disclosure of information

(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1854.)

### § 361. Reimbursement of expenses

Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1854.)

### § 362. Other provisions and rules not affected

Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1854.)

#### REFERENCES IN TEXT

The Federal Rules of Civil Procedure, the Federal Rules of Appellate Procedure, and the Federal Rules of Evidence, referred to in text, are set out in the Appendix to this title.

The Federal Rules of Criminal Procedure, referred to in text, are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

### § 363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

(Added Pub. L. 107-273, div. C, title I, §11042(a), Nov. 2, 2002, 116 Stat. 1854.)

### § 364. Effect of felony conviction

In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

(2) Any service as such judge or judge of a court referred to in section 363, after the con-

viction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.

(Added Pub. L. 107-273, div. C, title I, § 11042(a), Nov. 2, 2002, 116 Stat. 1855.)

**CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES**

- Sec.
- 371. Retirement on salary; retirement in senior status.
- 372. Retirement for disability; substitute judge on failure to retire.
- 373. Judges in Territories and Possessions.<sup>1</sup>
- 374. Residence of retired judges; official station.
- 375. Recall of certain judges and magistrate judges.
- 376. Annuities for survivors of certain judicial officials of the United States.
- 377. Retirement of bankruptcy judges and magistrate judges.

**AMENDMENTS**

2002—Pub. L. 107-273, div. C, title I, § 11043(a)(2), Nov. 2, 2002, 116 Stat. 1855, struck out “; judicial discipline” after “failure to retire” in item 372.

1988—Pub. L. 100-702, title X, § 1020(a)(9), Nov. 19, 1988, 102 Stat. 4672, substituted “Annuities for survivors of certain judicial officials of the United States” for “Annuities to widows and surviving dependent children of justices and judges of the United States” in item 376.

Pub. L. 100-659, § 2(b), Nov. 15, 1988, 102 Stat. 3916, added item 377.

1986—Pub. L. 99-651, title II, § 201(b)(2), Nov. 14, 1986, 100 Stat. 3648, amended item 375 generally.

1984—Pub. L. 98-353, title II, § 204(b), July 10, 1984, 98 Stat. 350, substituted “Retirement on salary; retirement in senior status” for “Resignation or retirement for age” in item 371.

1980—Pub. L. 96-458, § 3(c), Oct. 15, 1980, 94 Stat. 2040, inserted reference to “judicial discipline” in item 372.

1972—Pub. L. 92-397, § 3(a), (b), Aug. 22, 1972, 86 Stat. 579, substituted “JUSTICES AND JUDGES” for “JUDGES” in chapter heading, and substituted “justices and judges of the United States” for “judges” in item 376.

1959—Pub. L. 86-312, § 2, Sept. 21, 1959, 73 Stat. 587, inserted “; official station” in item 374.

1956—Act Aug. 3, 1956, ch. 944, § 1(a), 70 Stat. 1021, substituted “Annuities to widows of justices” for “Annuities to widows on the Chief Justice and Associate Justices of the Supreme Court of the United States” in item 375 and added item 376.

1954—Act Aug. 28, 1954, ch. 1053, § 2, 68 Stat. 918, added item 375.

Act Feb. 10, 1954, ch. 6, § 4(b), 68 Stat. 13, transferred “; substitute judge on failure to retire” from item 371 to item 372.

**CHANGE OF NAME**

Words “magistrate judges” substituted for “magistrates” in items 375 and 377 pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

**§ 371. Retirement on salary; retirement in senior status**

(a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the

<sup>1</sup>Section catchline amended by Pub. L. 99-396 without corresponding amendment of analysis.

age and meeting the service requirements, whether continuous or otherwise, of subsection (c) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired.

(b)(1) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c) of this section and shall, during the remainder of his or her lifetime, continue to receive the salary of the office if he or she meets the requirements of subsection (e).

(2) In a case in which a justice or judge who retires under paragraph (1) does not meet the requirements of subsection (e), the justice or judge shall continue to receive the salary that he or she was receiving when he or she was last in active service or, if a certification under subsection (e) was made for such justice or judge, when such a certification was last in effect. The salary of such justice or judge shall be adjusted under section 461 of this title.

(c) The age and service requirements for retirement under this section are as follows:

Attained age:	Years of service:
65 .....	15
66 .....	14
67 .....	13
68 .....	12
69 .....	11
70 .....	10

(d) The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires under this section.

(e)(1) In order to continue receiving the salary of the office under subsection (b), a justice must be certified in each calendar year by the Chief Justice, and a judge must be certified by the chief judge of the circuit in which the judge sits, as having met the requirements set forth in at least one of the following subparagraphs:

(A) The justice or judge must have carried in the preceding calendar year a caseload involving courtroom participation which is equal to or greater than the amount of work involving courtroom participation which an average judge in active service would perform in three months. In the instance of a justice or judge who has sat on both district courts and courts of appeals, the caseload of appellate work and trial work shall be determined separately and the results of those determinations added together for purposes of this paragraph.

(B) The justice or judge performed in the preceding calendar year substantial judicial duties not involving courtroom participation under subparagraph (A), including settlement efforts, motion decisions, writing opinions in cases that have not been orally argued, and administrative duties for the court to which the justice or judge is assigned. Any certification under this subparagraph shall include a statement describing in detail the nature and amount of work and certifying that the work done is equal to or greater than the work described in this subparagraph which an average