

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§843, 844, and 845 (R.S. §§990, 991, 992; 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).

Changes were made in phraseology.

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in subsec. (b) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title. Previously, “United States magistrate” substituted for “United States commissioner” pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of this title.

CHAPTER 129—MONEYS PAID INTO COURT

Sec.

2041. Deposit of moneys in pending or adjudicated cases.
 2042. Withdrawal.
 2043. Deposit of other moneys.
 2044. Payment of fine with bond money.
 2045. Investment of court registry funds.

AMENDMENTS

2008—Pub. L. 110-406, §8(b), Oct. 13, 2008, 122 Stat. 4293, added item 2045.

1990—Pub. L. 101-647, title XXXVI, §3629(b), Nov. 29, 1990, 104 Stat. 4966, which directed the amendment of the table of sections for chapter 29 by adding item 2044, was executed by adding item 2044 to the table of sections for chapter 129 to reflect the probable intent of Congress.

1982—Pub. L. 97-258, §2(g)(4)(A), (B), Sept. 13, 1982, 96 Stat. 1060, substituted “Deposit of moneys in pending or adjudicated cases” for “Deposit” in item 2041 and added item 2043.

§ 2041. Deposit of moneys in pending or adjudicated cases

All moneys paid into any court of the United States, or received by the officers thereof, in any case pending or adjudicated in such court, shall be forthwith deposited with the Treasurer of the United States or a designated depository, in the name and to the credit of such court.

This section shall not prevent the delivery of any such money to the rightful owners upon security, according to agreement of parties, under the direction of the court.

(June 25, 1948, ch. 646, 62 Stat. 960; Pub. L. 97-258, §2(g)(4)(C), Sept. 13, 1982, 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §851 (R.S. §995; May 29, 1920, ch. 214, §1, 41 Stat. 654).

Changes were made in phraseology.

AMENDMENTS

1982—Pub. L. 97-258 substituted “Deposit of moneys in pending or adjudicated cases” for “Deposit” in section catchline.

REGISTRY ADMINISTRATION ACCOUNT

Pub. L. 100-459, title IV, §400, Oct. 1, 1988, 102 Stat. 2211, provided: “That any funds hereafter collected by the Judiciary as a charge for services rendered in administering accounts kept in a court’s registry shall be deposited into a separate account entitled ‘Registry Administration Account’ in the Treasury of the United States. Such funds 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 Ju-

dicial Services and the Administrative Office of the United States Courts”.

§ 2042. Withdrawal

No money deposited under section 2041 of this title shall be withdrawn except by order of court.

In every case in which the right to withdraw money deposited in court under section 2041 has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him.

(June 25, 1948, ch. 646, 62 Stat. 960; Pub. L. 97-258, §2(g)(4)(D), Sept. 13, 1982, 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §852 (R.S. §996; Feb. 19, 1897, ch. 265, §3, 29 Stat. 578; Mar. 3, 1911, ch. 224, 36 Stat. 1083).

Words “and the money deposited as aforesaid shall constitute and be a permanent appropriation for payments in obedience to such orders” were omitted, in view of section 725p(b)(14), of title 31, U.S.C., 1940 ed., which repealed permanent appropriations of unclaimed money accounts and substituted authorization for annual appropriations effective July 1, 1935.

Changes were made in phraseology.

In U. S. Law Week, Nov. 7, 1939, Rep. Walter Chandler (Author of Chandler Act, Bankruptcy) observed as to the Judicial Code:

“Among the major subjects needing study and revision are—Numerous procedural changes which have been brought about through adoption of the Federal Rules of Civil Procedure should be codified.” * * *

AMENDMENTS

1982—Pub. L. 97-258 inserted references to section 2041 in two places.

§ 2043. Deposit of other moneys

Except for public moneys deposited under section 2041 of this title, each clerk of the United States courts shall deposit public moneys that the clerk collects into a checking account in the Treasury, subject to disbursement by the clerk. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

(Added Pub. L. 97-258, §2(g)(4)(E), Sept. 13, 1982, 96 Stat. 1061.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
28:2043	31:725v(b)(related to clerks).	June 26, 1934, ch. 756, §23(b)(related to clerks), 48 Stat. 1236; restated Dec. 21, 1944, ch. 631, §1, 58 Stat. 845.

The words “Except for public moneys deposited under section 2041 of this title . . . public moneys” are substituted for “All fees and other collections other than moneys referred to in subsection (a) of this section” for consistency and because 31:725v(a) is superseded by 28:2041 and is not part of the revised title contained in section 1 of the bill. The word “Treasury” is sub-

stituted for “Treasurer of the United States” because of section 1 of Reorganization Plan No. 26 of 1950 (eff. July 31, 1950, 64 Stat. 1280), restated as section 321 of the revised title contained in section 1 of the bill. The text of 31:725v(b)(last sentence) is omitted as obsolete.

§ 2044. Payment of fine with bond money

On motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant’s guilt has been entered and before sentencing except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This section shall not apply to any third party surety.

(Added Pub. L. 101-647, title XXXVI, §3629(a), Nov. 29, 1990, 104 Stat. 4966.)

EFFECTIVE DATE

Section effective 180 days after Nov. 29, 1990, and applicable with respect to certain actions for debts owed the United States pending in court on that effective date, see section 3631 of Pub. L. 101-647, set out as a note under section 3001 of this title.

§ 2045. Investment of court registry funds

(a) The Director of the Administrative Office of the United States Courts, or the Director’s designee under subsection (b), may request the Secretary of the Treasury to invest funds received under section 2041 in public debt securities with maturities suitable to the needs of the funds, as determined by the Director or the Director’s designee, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(b) The Director may designate the clerk of a court described in section 610 to exercise the authority conferred by subsection (a).

(Added Pub. L. 110-406, §8(a), Oct. 13, 2008, 122 Stat. 4293.)

CHAPTER 131—RULES OF COURTS

Sec.	
2071.	Rule-making power generally.
2072.	Rules of procedure and evidence; power to prescribe.
2073.	Rules of procedure and evidence; method of prescribing.
2074.	Rules of procedure and evidence; submission to Congress; effective date.
2075.	Bankruptcy rules.
[2076.	Repealed.]
2077.	Publication of rules; advisory committees.

AMENDMENTS

1988—Pub. L. 100-702, title IV, §401(d), Nov. 19, 1988, 102 Stat. 4650, added items 2072 to 2075 and struck out former items 2072 “Rules of civil procedure”, 2075 “Bankruptcy rules”, and 2076 “Rules of evidence”.

1982—Pub. L. 97-164, title II, §208(b), Apr. 2, 1982, 96 Stat. 55, added item 2077.

1975—Pub. L. 93-595, §2(a)(2), Jan. 2, 1975, 88 Stat. 1949, added item 2076.

1966—Pub. L. 89-773, §3, Nov. 6, 1966, 80 Stat. 1323, struck out “for district courts” in item 2072 and struck out items 2073 and 2074.

1964—Pub. L. 88-623, §2, Oct. 3, 1964, 78 Stat. 1001, added item 2075.

1954—Act July 27, 1954, ch. 583, §2, 68 Stat. 567, added item 2074.

§ 2071. Rule-making power generally

(a) The Supreme Court and all courts established by Act of Congress may from time to time prescribe rules for the conduct of their business. Such rules shall be consistent with Acts of Congress and rules of practice and procedure prescribed under section 2072 of this title.

(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

(f) No rule may be prescribed by a district court other than under this section.

(June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, §102, 63 Stat. 104; Pub. L. 100-702, title IV, §403(a)(1), Nov. 19, 1988, 102 Stat. 4650.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§219, 263, 296, 307, 723, 731, and 761, and section 1111 of title 26, U.S.C., 1940 ed., Internal Revenue Code (R.S. §§913, 918; Mar. 3, 1887, ch. 359, §4, 24 Stat. 506; Mar. 3, 1911, ch. 231, §§122, 157, 194, 291, 297, 36 Stat. 1132, 1139, 1145, 1167, 1168; Mar. 3, 1911, ch. 231, §187(a), as added Oct. 10, 1940, ch. 843, §1, 54 Stat. 1101; Feb. 13, 1925, ch. 229, §13, 43 Stat. 941; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475; Feb. 10, 1939, ch. 2, §1111, 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, §504(a), (c), 56 Stat. 957).

Sections 219, 263, 296, 307, 723, and 731 of title 28, U.S.C., 1940 ed., gave specified courts, other than the Supreme Court, power to make rules. Section 761 of such title related to rules established in the district courts and Court of Claims. Section 1111 of title 26, U.S.C., 1940 ed., related to Tax Court. This section consolidates all such provisions. For other provisions of such sections, see Distribution Table.

Recognition by Congress of the broad rule-making power of the courts will make it possible for the courts