

§ 1442. Federal officers or agencies sued or prosecuted

(a) A civil action or criminal prosecution that is commenced in a State court and that is against or directed to any of the following may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, in an official or individual capacity, for or relating to any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

(2) A property holder whose title is derived from any such officer, where such action or prosecution affects the validity of any law of the United States.

(3) Any officer of the courts of the United States, for or relating to any act under color of office or in the performance of his duties;

(4) Any officer of either House of Congress, for or relating to any act in the discharge of his official duty under an order of such House.

(b) A personal action commenced in any State court by an alien against any citizen of a State who is, or at the time the alleged action accrued was, a civil officer of the United States and is a nonresident of such State, wherein jurisdiction is obtained by the State court by personal service of process, may be removed by the defendant to the district court of the United States for the district and division in which the defendant was served with process.

(c) Solely for purposes of determining the propriety of removal under subsection (a), a law enforcement officer, who is the defendant in a criminal prosecution, shall be deemed to have been acting under the color of his office if the officer—

(1) protected an individual in the presence of the officer from a crime of violence;

(2) provided immediate assistance to an individual who suffered, or who was threatened with, bodily harm; or

(3) prevented the escape of any individual who the officer reasonably believed to have committed, or was about to commit, in the presence of the officer, a crime of violence that resulted in, or was likely to result in, death or serious bodily injury.

(d) In this section, the following definitions apply:

(1) The terms “civil action” and “criminal prosecution” include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.

(2) The term “crime of violence” has the meaning given that term in section 16 of title 18.

(3) The term “law enforcement officer” means any employee described in subpara-

graph (A), (B), or (C) of section 8401(17) of title 5 and any special agent in the Diplomatic Security Service of the Department of State.

(4) The term “serious bodily injury” has the meaning given that term in section 1365 of title 18.

(5) The term “State” includes the District of Columbia, United States territories and insular possessions, and Indian country (as defined in section 1151 of title 18).

(6) The term “State court” includes the Superior Court of the District of Columbia, a court of a United States territory or insular possession, and a tribal court.

(June 25, 1948, ch. 646, 62 Stat. 938; Pub. L. 104-317, title II, §206(a), Oct. 19, 1996, 110 Stat. 3850; Pub. L. 112-51, §2(a), (b), Nov. 9, 2011, 125 Stat. 545; Pub. L. 112-239, div. A, title X, §1087, Jan. 2, 2013, 126 Stat. 1969.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§76 and 77 (Mar. 3, 1911, ch. 231, §§33, 34, 36 Stat. 1097, 1098; Aug. 23, 1916, ch. 399, 39 Stat. 532).

Section consolidates sections 76 and 77 of title 28, U.S.C., 1940 ed.

The revised subsection (a)(1) is extended to apply to all officers and employees of the United States or any agency thereof. Section 76 of title 28, U.S.C., 1940 ed., was limited to revenue officers engaged in the enforcement of the criminal or revenue laws.

The procedural provisions of section 76 of title 28, U.S.C., 1940 ed., are incorporated in sections 1446 and 1447 of this title. (See reviser's notes under those sections.)

Changes were made in phraseology.

AMENDMENTS

2013—Subsecs. (c), (d). Pub. L. 112-239 added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: “As used in subsection (a), the terms ‘civil action’ and ‘criminal prosecution’ include any proceeding (whether or not ancillary to another proceeding) to the extent that in such proceeding a judicial order, including a subpoena for testimony or documents, is sought or issued. If removal is sought for a proceeding described in the previous sentence, and there is no other basis for removal, only that proceeding may be removed to the district court.”

2011—Subsec. (a). Pub. L. 112-51, §2(a)(1), inserted “that is” after “or criminal prosecution”, “and that is” after “in a State court”, and “or directed to” after “against” in introductory provisions.

Subsec. (a)(1). Pub. L. 112-51, §2(b)(1), substituted “capacity, for or relating to” for “capacity for” and struck out “sued” after “thereof.”

Subsec. (a)(3), (4). Pub. L. 112-51, §2(b)(2), inserted “or relating to” after “for”.

Subsec. (c). Pub. L. 112-51, §2(a)(2), added subsec. (c).

1996—Pub. L. 104-317, §206(a)(1), inserted “or agencies” after “officers” in section catchline.

Subsec. (a). Pub. L. 104-317, §206(a)(2), struck out “persons” after “following” in introductory provisions and substituted “The United States or any agency thereof or any officer (or any person acting under that officer) of the United States or of any agency thereof, sued in an official or individual capacity for any act under color of such office” for “Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office” in par. (1).

§ 1442a. Members of armed forces sued or prosecuted

A civil or criminal prosecution in a court of a State of the United States against a member of

the armed forces of the United States on account of an act done under color of his office or status, or in respect to which he claims any right, title, or authority under a law of the United States respecting the armed forces thereof, or under the law of war, may at any time before the trial or final hearing thereof be removed for trial into the district court of the United States for the district where it is pending in the manner prescribed by law, and it shall thereupon be entered on the docket of the district court, which shall proceed as if the cause had been originally commenced therein and shall have full power to hear and determine the cause.

(Added Aug. 10, 1956, ch. 1041, §19(a), 70A Stat. 626.)

DERIVATION

Section was from the Uniform Code of Military Justice, act May 5, 1950, ch. 169, §9, 64 Stat. 146, which was based on Article 117, Articles of War, act June 4, 1920, ch. 227, subch. II, §1, 41 Stat. 811, as amended June 24, 1948, ch. 625, title II, §242, 62 Stat. 642.

§ 1443. Civil rights cases

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.

(June 25, 1948, ch. 646, 62 Stat. 938.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §74 (Mar. 3, 1911, ch. 231, §31, 36 Stat. 1096).

Other provisions of section 74 of title 28, U.S.C., 1940 ed., are incorporated in sections 1446 and 1447 of this title.

Words “or in the part of the State where such suit or prosecution is pending” after “courts of such States,” were omitted as unnecessary.

Changes were made in phraseology.

§ 1444. Foreclosure action against United States

Any action brought under section 2410 of this title against the United States in any State court may be removed by the United States to the district court of the United States for the district and division in which the action is pending.

(June 25, 1948, ch. 646, 62 Stat. 938; May 24, 1949, ch. 139, §82, 63 Stat. 101.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §903 (Mar. 4, 1931, ch. 515, §3, 46 Stat. 1529).

The procedural provisions of section 903 of title 28, U.S.C., 1940 ed., were omitted as covered by section 1446 of this title.

Changes were made in phraseology.

1949 ACT

This section corrects typographical errors in section 1444 of title 28, U.S.C.

AMENDMENTS

1949—Act May 24, 1949, inserted “court” between “State” and “may”, and substituted “division” for “divisions”.

§ 1445. Nonremovable actions

(a) A civil action in any State court against a railroad or its receivers or trustees, arising under sections 1–4 and 5–10 of the Act of April 22, 1908 (45 U.S.C. 51–54, 55–60), may not be removed to any district court of the United States.

(b) A civil action in any State court against a carrier or its receivers or trustees to recover damages for delay, loss, or injury of shipments, arising under section 11706 or 14706 of title 49, may not be removed to any district court of the United States unless the matter in controversy exceeds \$10,000, exclusive of interest and costs.

(c) A civil action in any State court arising under the workmen’s compensation laws of such State may not be removed to any district court of the United States.

(d) A civil action in any State court arising under section 40302 of the Violence Against Women Act of 1994 may not be removed to any district court of the United States.

(June 25, 1948, ch. 646, 62 Stat. 939; Pub. L. 85–554, §5, July 25, 1958, 72 Stat. 415; Pub. L. 95–473, §2(a)(3)(A), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 95–486, §9(b), Oct. 20, 1978, 92 Stat. 1634; Pub. L. 103–322, title IV, §40302(e)(5), Sept. 13, 1994, 108 Stat. 1942; Pub. L. 104–88, title III, §305(b), Dec. 29, 1995, 109 Stat. 944; Pub. L. 104–287, §3, Oct. 11, 1996, 110 Stat. 3388.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §71 (Mar. 3, 1911, ch. 231, §28, 36 Stat. 1094; Jan. 20, 1914, ch. 11, 38 Stat. 278; Jan. 31, 1928, ch. 14, §1, 45 Stat. 54).

The words “or its receivers or trustees” were inserted in both subsections to make clear that nonremovable actions against a carrier do not become removable under section 1442 of this title when filed against court receivers or trustees.

This was the unquestioned rule prior to the act of Aug. 23, 1916, ch. 399, 39 Stat. 532, amending section 76 of title 28, U.S.C., 1940 ed., and permitting removal of actions against officers of United States courts. The cases are in conflict as to whether under that amendment the case becomes removable when the carrier is in receivership or undergoing reorganization. The revised section resolves the conflict by denying the right of removal to receivers and trustees where it would be nonexistent if the carrier were the party defendant. Thus the subject matter rather than legalistic distinctions as to the identity of the parties is made determinative consideration.

A reference in section 71 of title 28, U.S.C., 1940 ed., to sections 51–59 of title 45, U.S.C., 1940 ed., Railroads, was changed to “51–60.” Such sections 51–59 embraced all of chapter 2 of said title 45 when the law on which such section 71 is based was enacted, but a new section (60) was added in 1939.

Other provisions of section 71 of title 28, U.S.C., 1940 ed., appear in section 1441 of this title.

Changes were made in phraseology.

REFERENCES IN TEXT

Section 40302 of the Violence Against Women Act of 1994, referred to in subsec. (d), is classified to section 13981 of Title 42, The Public Health and Welfare.