

Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of Title 42 and Tables.

#### AMENDMENTS

2008—Subsecs. (j) to (l). Pub. L. 110-406 inserted “and” at end of subsec. (j), redesignated subsec. (l) as (k), and struck out former subsec. (k) which defined “publicly draw”.

1988—Subsec. (a). Pub. L. 100-702, §802(a), amended subsec. (a) generally, substituting “, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter” for “or any authorized deputy clerk”.

Subsec. (f). Pub. L. 100-702, §804, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: “‘district court of the United States’, ‘district court’, and ‘court’ shall mean courts constituted under chapter 5 of title 28, United States Code, section 22 of the Organic Act of Guam, as amended (64 Stat. 389; 48 U.S.C. 1424), section 21 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1611), and section 1 of title 3, Canal Zone Code;”.

1986—Subsec. (f). Pub. L. 99-650 struck out “except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia” after “Canal Zone Code;”.

1978—Subsec. (f). Pub. L. 95-598 directed the amendment of subsec. (f) by inserting “chapter 6 of title 28, United States Code,” after “chapter 5 of title 28, United States Code,” 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.

Subsec. (h). Pub. L. 95-572, §3(b), struck out “by pardon or amnesty” after “civil rights restored”.

Subsecs. (j) to (l). Pub. L. 95-572, §4, added subsecs. (j) to (l).

1972—Subsec. (h). Pub. L. 92-437 added race and occupation to the particulars to be elicited on the juror qualification form, in provisions distinguishing between information to be requested and information to be required, struck out “race and occupation of a potential juror”, and in information to be contained in the form, struck out “race, color” and “occupation” from the particulars, and required additional material to be contained in the form that information concerning race is required solely to enforce nondiscrimination in jury selection and that it has no bearing on an individual’s qualification for jury service.

1970—Subsec. (f). Pub. L. 91-358 substituted reference to the Superior Court of the District of Columbia for references to the District of Columbia Court of General Sessions and the Juvenile Court of the District of Columbia.

1968—Pub. L. 90-274 substituted provisions defining “clerk”, “clerk of the court”, “chief judge”, “voter registration lists”, “list of actual voters”, “division”, “district court”, “jury wheel”, “juror qualification form”, and “public officer” for provisions allowing the challenge of a petit juror who had been summoned and attended court as a petit juror at any session held within one year prior to the challenge.

1963—Pub. L. 88-139 substituted “session” for “term”.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-650, §4(a), Nov. 14, 1986, 100 Stat. 3641, provided in part that: “The provisions of this Act [amending this section] shall take effect 180 days after the date of enactment of this Act [Nov. 14, 1986]”.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-572 applicable with respect to any grand or petit juror summoned for service or actually serving on or after Nov. 2, 1978, see section 7(a) of Pub. L. 95-572, set out as an Effective Date note under section 1363 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-437, §2, Sept. 29, 1972, 86 Stat. 741, provided that: “This Act [amending this section] shall take effect on the sixtieth day after the date of its enactment [Sept. 29, 1972].”

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-358 effective first day of seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91-358, set out as a note under section 1257 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-274 effective 270 days after Mar. 27, 1968, except as to cases in which an indictment has been returned or a petit jury empaneled prior to such effective date, see section 104 of Pub. L. 90-274, set out as a note under section 1861 of this title.

#### 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 Pub. L. 96-70, title II, §§2101, 2202-2203, Sept. 27, 1979, 93 Stat. 493, 494, formerly classified to sections 3831 and 3841 to 3843, respectively, of Title 22, Foreign Relations and Intercourse.

### § 1870. Challenges

In civil cases, each party shall be entitled to three peremptory challenges. Several defendants or several plaintiffs may be considered as a single party for the purposes of making challenges, or the court may allow additional peremptory challenges and permit them to be exercised separately or jointly.

All challenges for cause or favor, whether to the array or panel or to individual jurors, shall be determined by the court.

(June 25, 1948, ch. 646, 62 Stat. 953; Pub. L. 86-282, Sept. 16, 1959, 73 Stat. 565.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §424 (Mar. 3, 1911, ch. 231, §287, 36 Stat. 1166).

Provisions of section 424 of title 28, U.S.C., 1940 ed., relating to the number of peremptory challenges in criminal cases were deleted as superseded by Rule 24 of the Federal Rules of Criminal Procedure.

The last sentence of the first paragraph was added to permit the same flexibility in the matter of challenges in civil cases as is permitted in criminal cases by said Rule 24.

Words “without aid of triers” at end of section 424 of title 28, U.S.C., 1940 ed., were omitted as surplusage.

Changes were made in phraseology.

#### AMENDMENTS

1959—Pub. L. 86-282 substituted “may” for “shall” after “several plaintiffs”, and “, or the court may allow” for “. If there is more than one defendant the court may allow the defendants”.

### § 1871. Fees

(a) Grand and petit jurors in district courts appearing pursuant to this chapter shall be paid the fees and allowances provided by this section. The requisite fees and allowances shall be disbursed on the certificate of the clerk of court in accordance with the procedure established by the Director of the Administrative Office of the

United States Courts. Attendance fees for extended service under subsection (b) of this section shall be certified by the clerk only upon the order of a district judge.

(b)(1) A juror shall be paid an attendance fee of \$40 per day for actual attendance at the place of trial or hearing. A juror shall also be paid the attendance fee for the time necessarily occupied in going to and returning from such place at the beginning and end of such service or at any time during such service.

(2) A petit juror required to attend more than ten days in hearing one case may be paid, in the discretion of the trial judge, an additional fee, not exceeding \$10 more than the attendance fee, for each day in excess of ten days on which he is required to hear such case.

(3) A grand juror required to attend more than forty-five days of actual service may be paid, in the discretion of the district judge in charge of the particular grand jury, an additional fee, not exceeding \$10 more than the attendance fee, for each day in excess of forty-five days of actual service.

(4) A grand or petit juror required to attend more than ten days of actual service may be paid, in the discretion of the judge, the appropriate fees at the end of the first ten days and at the end of every ten days of service thereafter.

(5) Certification of additional attendance fees may be ordered by the judge to be made effective commencing on the first day of extended service, without reference to the date of such certification.

(c)(1) A travel allowance not to exceed the maximum rate per mile that the Director of the Administrative Office of the United States Courts has prescribed pursuant to section 604(a)(7) of this title for payment to supporting court personnel in travel status using privately owned automobiles shall be paid to each juror, regardless of the mode of transportation actually employed. The prescribed rate shall be paid for the distance necessarily traveled to and from a juror's residence by the shortest practical route in going to and returning from the place of service. Actual mileage in full at the prescribed rate is payable at the beginning and at the end of a juror's term of service.

(2) The Director shall promulgate rules regulating interim travel allowances to jurors. Distances traveled to and from court should coincide with the shortest practical route.

(3) Toll charges for toll roads, bridges, tunnels, and ferries shall be paid in full to the juror incurring such charges. In the discretion of the court, reasonable parking fees may be paid to the juror incurring such fees upon presentation of a valid parking receipt. Parking fees shall not be included in any tabulation of mileage cost allowances.

(4) Any juror who travels to district court pursuant to summons in an area outside of the contiguous forty-eight States of the United States shall be paid the travel expenses provided under this section, or actual reasonable transportation expenses subject to the discretion of the district judge or clerk of court as circumstances indicate, exercising due regard for the mode of transportation, the availability of alternative

modes, and the shortest practical route between residence and court.

(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines established by the Judicial Conference, the actual reasonable costs of travel by aircraft when travel by other means is not feasible and when certified by the chief judge of the district court in which the grand juror serves.

(d)(1) A subsistence allowance covering meals and lodging of jurors shall be established from time to time by the Director of the Administrative Office of the United States Courts pursuant to section 604(a)(7) of this title, except that such allowance shall not exceed the allowance for supporting court personnel in travel status in the same geographical area. Claims for such allowance shall not require itemization.

(2) A subsistence allowance shall be paid to a juror when an overnight stay is required at the place of holding court, and for the time necessarily spent in traveling to and from the place of attendance if an overnight stay is required.

(3) A subsistence allowance for jurors serving in district courts outside of the contiguous forty-eight States of the United States shall be allowed at a rate not to exceed that per diem allowance which is paid to supporting court personnel in travel status in those areas where the Director of the Administrative Office of the United States Courts has prescribed an increased per diem fee pursuant to section 604(a)(7) of this title.

(e) During any period in which a jury is ordered to be kept together and not to separate, the actual cost of subsistence shall be paid upon the order of the court in lieu of the subsistence allowances payable under subsection (d) of this section. Such allowance for the jurors ordered to be kept separate or sequestered shall include the cost of meals, lodging, and other expenditures ordered in the discretion of the court for their convenience and comfort.

(f) A juror who must necessarily use public transportation in traveling to and from court, the full cost of which is not met by the transportation expenses allowable under subsection (c) of this section on account of the short distance traveled in miles, may be paid, in the discretion of the court, the actual reasonable expense of such public transportation, pursuant to the methods of payment provided by this section. Jurors who are required to remain at the court beyond the normal business closing hour for deliberation or for any other reason may be transported to their homes, or to temporary lodgings where such lodgings are ordered by the court, in a manner directed by the clerk and paid from funds authorized under this section.

(g) The Director of the Administrative Office of the United States Courts shall promulgate such regulations as may be necessary to carry out his authority under this section.

(June 25, 1948, ch. 646, 62 Stat. 953; May 24, 1949, ch. 139, §97, 63 Stat. 103; July 14, 1949, ch. 333, 63 Stat. 411; Pub. L. 85-299, Sept. 7, 1957, 71 Stat. 618; Pub. L. 89-165, Sept. 2, 1965, 79 Stat. 645; Pub. L. 90-274, §102(a), Mar. 27, 1968, 82 Stat. 62; Pub. L. 95-572, §5, Nov. 2, 1978, 92 Stat. 2454; Pub. L. 101-650, title III, §314(b), Dec. 1, 1990, 104 Stat.

5115; Pub. L. 102-572, title IV, §402, Oct. 29, 1992, 106 Stat. 4511; Pub. L. 110-406, §3(a), Oct. 13, 2008, 122 Stat. 4292.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., §§ 600, 600a, 600b, 608, and sections 11-1512 and 11-1513 of the D.C. Code, 1940 ed., (R.S. §§ 236, 323; Apr. 26, 1926, ch. 183, §§ 1, 2, 44 Stat. 323; May 17, 1932, ch. 190, 47 Stat. 158; Oct. 13, 1941, ch. 431, § 2, 55 Stat. 736).

Section consolidates section 600 of title 28, U.S.C., 1940 ed., and sections 11-1512 and 11-1513 of the D.C. Code, 1940 ed., with part of section 608 of title 28, U.S.C., 1940 ed. The remainder of such section 608, relating to payment of witnesses' compensation, is the basis of section 1825 of this title.

Words "place of service" were substituted for references to attendance at court, in view of the earlier reference to service before commissioners.

The Advisory Committee to the House Committee on Revision of the Laws in revision of this title, recommends a careful study of the compensation of witnesses and jurors. Furthermore, provision should be made for the subsistence of jurors and witnesses serving at such distance from their homes as precludes daily travel to and from the court.

Changes were made in phraseology.

1949 ACT

This section incorporates in section 1871 of title 28, U.S.C., with changes in phraseology, the provisions of act of June 25, 1948 (ch. 652, 62 Stat. 1016), which became law subsequent to the enactment of the revision.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-406 substituted "ten days" for "thirty days" in two places.

1992—Subsec. (c)(5). Pub. L. 102-572 added par. (5).

1990—Subsec. (b). Pub. L. 101-650 substituted "\$40" for "\$30" in par. (1) and "\$10" for "\$5" in pars. (2) and (3).

1978—Subsecs. (a) to (g). Pub. L. 95-572, in revising text, substituted subsecs. (a) to (g) for prior five unnumbered paragraphs, and among other changes, deleted reference to fees for service before United States commissioners, now provided for in chapter 43 (section 631 et seq.) of this title relating to United States magistrates; increased to \$30 from \$20 allowance for actual attendance; continued the discretionary additional fee for extended service, increasing to forty-five from thirty days the basic service requirement; generalized travel allowance provisions in place of 10 cents per mile travel allowance from residence to place of service when commencing and terminating service and any necessary daily or interim travel, not to exceed a subsistence allowance of \$16 per day; and deleted provision for same fees for service in districts courts for districts of Guam and Canal Zone as provided for services in other Federal district courts as covered in definition of "district court of the United States" in section 1869(f) of this title.

1968—Pub. L. 90-274 increased from \$10 to \$20 the per diem allowance for grand and petit jurors, increased from \$14 to \$25 the fee for extra days in cases requiring attendance in excess of 30 days, increased from \$10 to \$16 the daily subsistence rate when travel appears impracticable, increased from \$10 to \$20 per day the limit after which payment of fees by the marshal must be on the certificate of the trial judge, provided for the allowance of amounts expended for tolls, for toll roads, for toll tunnels, and for toll bridges, and directed that grand and petit jurors in the district courts for the districts of Guam and the Canal Zone receive the same fees and allowances provided for grand and petit jurors in other district courts of the United States.

1965—Pub. L. 89-165 increased from \$7 to \$10 the per diem allowance for grand and petit jurors, increased from \$10 to \$14 the fee for extra days in cases requiring

attendance in excess of 30 days, prohibited payment for interim or daily travel at the 10-cent-per-mile rate in excess of the subsistence allowance which would have been paid if he had remained at the place of holding court overnight or during temporary recess, increased from \$7 to \$10 the daily subsistence rate when travel daily appears impracticable, and increased from \$7 to \$10 per day the limit after which payment of fees by the marshal must be on the certificate of the trial judge.

1957—Pub. L. 85-299 increased from 7 to 10 cents per mile and \$5 to \$7 per day the mileage and subsistence allowances of grand and petit jurors.

1949—Act July 14, 1949, increased the per diem fee paid jurors from \$5 to \$7, provided for per diem fee payments not to exceed \$10 for each day in excess of thirty days, increased the mileage payment from 5 cents per mile to 7 cents, and provided for the certification of the judge in cases where the jury fee is in excess of \$7 per diem.

Act May 24, 1949, increased jury fees and mileage and subsistence allowances.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-406, §3(b), Oct. 13, 2008, 122 Stat. 4292, provided that: "The amendments made by this section [amending this section] shall take effect on October 1, 2009."

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 1978 AMENDMENT

Amendment by Pub. L. 95-572 applicable with respect to any grand or petit juror serving on or after the sixtieth day following Nov. 2, 1978, see section 7(b) of Pub. L. 95-572, set out as an Effective Date note under section 1363 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-274 effective 270 days after Mar. 27, 1968, except as to cases in which an indictment has been returned or a petit jury empaneled prior to such effective date, see section 104 of Pub. L. 90-274, set out as a note under section 1861 of this title.

REFRESHMENT OF JURORS

Pub. L. 101-162, title IV, Nov. 21, 1989, 103 Stat. 1012, provided: "That for fiscal year 1990 and hereafter, funds appropriated under this heading [COURTS OF APPEALS, DISTRICT COURTS AND OTHER JUDICIAL SERVICES AND FEES OF JURORS AND COMMISSIONERS] shall be available for refreshment of jurors."

§ 1872. Issues of fact in Supreme Court

In all original actions at law in the Supreme Court against citizens of the United States, issues of fact shall be tried by a jury.

(June 25, 1948, ch. 646, 62 Stat. 953.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §343 (Mar. 3, 1911, ch. 231, § 235, 36 Stat. 1156).

Changes were made in phraseology.

§ 1873. Admiralty and maritime cases

In any case of admiralty and maritime jurisdiction relating to any matter of contract or tort arising upon or concerning any vessel of twenty tons or upward, enrolled and licensed for the coasting trade, and employed in the business of commerce and navigation between places in different states upon the lakes and navigable waters connecting said lakes, the trial of all is-