

§ 294. Assignment of retired Justices or judges to active duty

(a) Any retired Chief Justice of the United States or Associate Justice of the Supreme Court may be designated and assigned by the Chief Justice of the United States to perform such judicial duties in any circuit, including those of a circuit justice, as he is willing to undertake.

(b) Any judge of the United States who has retired from regular active service under section 371(b) or 372(a) of this title shall be known and designated as a senior judge and may continue to perform such judicial duties as he is willing and able to undertake, when designated and assigned as provided in subsections (c) and (d).

(c) Any retired circuit or district judge may be designated and assigned by the chief judge or judicial council of his circuit to perform such judicial duties within the circuit as he is willing and able to undertake. Any other retired judge of the United States may be designated and assigned by the chief judge of his court to perform such judicial duties in such court as he is willing and able to undertake.

(d) The Chief Justice of the United States shall maintain a roster of retired judges of the United States who are willing and able to undertake special judicial duties from time to time outside their own circuit, in the case of a retired circuit or district judge, or in a court other than their own, in the case of other retired judges, which roster shall be known as the roster of senior judges. Any such retired judge of the United States may be designated and assigned by the Chief Justice to perform such judicial duties as he is willing and able to undertake in a court outside his own circuit, in the case of a retired circuit or district judge, or in a court other than his own, in the case of any other retired judge of the United States. Such designation and assignment to a court of appeals or district court shall be made upon the presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises and to any other court of the United States upon the presentation of a certificate of necessity by the chief judge of such court. No such designation or assignment shall be made to the Supreme Court.

(e) No retired justice or judge shall perform judicial duties except when designated and assigned.

(June 25, 1948, ch. 646, 62 Stat. 901; July 9, 1956, ch. 517, § 1(c), 70 Stat. 497; Pub. L. 85-219, Aug. 29, 1957, 71 Stat. 495; Pub. L. 85-755, § 5, Aug. 25, 1958, 72 Stat. 849; Pub. L. 95-598, title II, § 206, Nov. 6, 1978, 92 Stat. 2660.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 375, 375a, and 375f (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; Mar. 1, 1937, ch. 21, 50 Stat. 24; Feb. 11, 1938, ch. 25, 52 Stat. 28; Aug. 5, 1939, ch. 433, § 5, as added May 11, 1944, ch. 192, §§ 1-3, 58 Stat. 218, 219).

Section consolidates those parts of sections 375, 375a, and 375f of title 28, U.S.C., 1940 ed., relating to designation and assignment of retired justices and judges. Other provisions of said sections 375 and 375a, appear in sections 136, 371, and 756 of this title.

The term "chief judge" was substituted for "presiding judge or senior judge." (See Reviser's Note under section 136 of this title.)

Changes were made in phraseology.

AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95-598 directed the amendment of subsec. (c) by substituting "district or bankruptcy judge" for "or district" and the amendment of subsec. (d) by substituting "district judge or bankruptcy judge" for "or district judge", which amendments did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1958—Subsec. (a). Pub. L. 85-755 reenacted subsec. (a) without change.

Subsecs. (b) to (d). Pub. L. 85-755 revised and rearranged subject matter to apply "senior judge" to all judges who retire from regular active service under sections 371(b) and 372(a) of this title, while retaining their commissions, rather than merely to those who ask to be placed on the Chief Justice's roster, to lodge solely in the chief judge and judicial council of the circuit concerned the intracircuit assignment power, and in the Chief Justice the power to assign retired judges beyond their circuits or special courts.

Subsec. (e). Pub. L. 85-755 reenacted subsec. (e) without change.

1957—Subsec. (d). Pub. L. 85-219 added subsec. (d).

1956—Subsec. (b). Act July 9, 1956, inserted provisions relating to assignment of retired judges of the Court of Claims.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Amendment by Pub. L. 85-755 not limiting or altering the jurisdiction of the United States Court of Customs and Patent Appeals [now United States Court of Appeals for the Federal Circuit], see section 7 of Pub. L. 85-755, set out as a note under section 291 of this title.

§ 295. Conditions upon designation and assignment

No designation and assignment of a circuit or district judge in active service shall be made without the consent of the chief judge or judicial council of the circuit from which the judge is to be designated and assigned. No designation and assignment of a judge of any other court of the United States in active service shall be made without the consent of the chief judge of such court.

All designations and assignments of justices and judges shall be filed with the clerks and entered on the minutes of the courts from and to which made.

The Chief Justice of the United States, a circuit justice or a chief judge of a circuit may make new designation and assignments in accordance with the provisions of this chapter and may revoke those previously made by him.

(June 25, 1948, ch. 646, 62 Stat. 901; Sept. 3, 1954, ch. 1263, § 39(d), 68 Stat. 1240; July 14, 1956, ch. 589, § 3(b), 70 Stat. 532; Pub. L. 85-755, § 6, Aug. 25, 1958, 72 Stat. 850; Pub. L. 95-598, title II, § 207, Nov. 6, 1978, 92 Stat. 2660.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 17, 20 (Mar. 3, 1911, ch. 231, §§ 13, 16, 36 Stat. 1089; Sept. 14, 1922, ch. 306, § 3, 42 Stat. 839; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §§ 1, 4, 56 Stat. 1094, 1095).

This section consolidates and simplifies provisions of sections 17 and 20 of title 28, U.S.C., 1940 ed., relating to conditions upon designation and assignment as well as those applicable to filing, revoking and making new designations.