

(1) defend the Senate, a committee, subcommittee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof, in which the Senate, such committee, subcommittee, Member, officer, or employee is made a party defendant and in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpoena or order, taken by the Senate, or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity; or

(2) defend the Senate or a committee, subcommittee, Member, officer, or employee of the Senate in any proceeding with respect to any subpoena or order directed to the Senate or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity.

(b) Representation of a Member, officer, or employee under subsection (a) shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee.

(Pub. L. 95-521, title VII, §704, Oct. 26, 1978, 92 Stat. 1877.)

#### EFFECTIVE DATE

Section effective Jan. 3, 1979, see section 717 of Pub. L. 95-521, set out as a note under section 288 of this title.

### § 288d. Enforcement of Senate subpoena or order

#### (a) Institution of civil actions

When directed to do so pursuant to section 288b(b) of this title, the Counsel shall bring a civil action under any statute conferring jurisdiction on any court of the United States (including section 1365 of title 28), to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened failure or refusal to comply with, any subpoena or order issued by the Senate or a committee or a subcommittee of the Senate authorized to issue a subpoena or order.

#### (b) Actions in name of committees and subcommittees

Any directive to the Counsel to bring a civil action pursuant to subsection (a) in the name of a committee or subcommittee of the Senate shall, for such committee or subcommittee, constitute authorization to bring such action within the meaning of any statute conferring jurisdiction on any court of the United States.

#### (c) Consideration of resolutions authorizing actions

It shall not be in order in the Senate to consider a resolution to direct the Counsel to bring a civil action pursuant to subsection (a) in the name of a committee or subcommittee unless—

(1) such resolution is reported by a majority of the members voting, a majority being present, of such committee or committee of which such subcommittee is a subcommittee, and

(2) the report filed by such committee or committee of which such subcommittee is a subcommittee contains a statement of—

(A) the procedure followed in issuing such subpoena;

(B) the extent to which the party subpoenaed has complied with such subpoena;

(C) any objections or privileges raised by the subpoenaed party; and

(D) the comparative effectiveness of bringing a civil action under this section, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before the Senate.

#### (d) Rules of Senate

The provisions of subsection (c) are enacted—

(1) as an exercise of the rulemaking power of the Senate, and, as such, they shall be considered as part of the rules of the Senate, and such rules shall supersede any other rule of the Senate only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules (so far as relating to the procedure in the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

#### (e) Committee reports

A report filed pursuant to subsection (c)(2) shall not be receivable in any court of law to the extent such report is in compliance with such subsection.

#### (f) Omitted

#### (g) Certification of failure to testify; contempt

Nothing in this section shall limit the discretion of—

(1) the President pro tempore of the Senate in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 194 of this title; or

(2) the Senate to hold any individual or entity in contempt of the Senate.

(Pub. L. 95-521, title VII, §705, Oct. 26, 1978, 92 Stat. 1878; Pub. L. 99-336, §6(a)(2), June 19, 1986, 100 Stat. 639.)

#### CODIFICATION

Subsec. (f) of this section amended title 28 by adding section 1364 and by adding item 1364 to the chapter analysis.

#### AMENDMENTS

1986—Subsec. (a). Pub. L. 99-336 substituted “section 1365 of title 28” for “section 1364 of title 28”.

#### EFFECTIVE DATE

Section effective Jan. 3, 1979, see section 717 of Pub. L. 95-521, set out as a note under section 288 of this title.

### § 288e. Intervention or appearance

#### (a) Actions or proceedings

When directed to do so pursuant to section 288b(c) of this title, the Counsel shall intervene or appear as *amicus curiae* in the name of the Senate, or in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of the Senate in any legal action or proceeding pending in any court of the United States or of a State or political subdivision