

CHAPTER 13—ASSIGNMENT OF JUDGES TO OTHER COURTS

Sec.	
291.	Circuit judges.
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AMENDMENTS

1988—Pub. L. 100-702, title X, §1022(2), Nov. 19, 1988, 102 Stat. 4673, added item 297.

1982—Pub. L. 97-164, title I, §110(c), Apr. 2, 1982, 96 Stat. 29, substituted “the Court of International Trade” for “other courts” in item 293.

1958—Pub. L. 85-755, §8, Aug. 25, 1958, 72 Stat. 850, substituted “Judges of other courts” for “Circuit or district judges to Court of Customs and Patent Appeals” in item 293.

§ 291. Circuit judges

(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.

(b) The chief judge of a circuit or the circuit justice may, in the public interest, designate and assign temporarily any circuit judge within the circuit, including a judge designated and assigned to temporary duty therein, to hold a district court in any district within the circuit.

(June 25, 1948, ch. 646, 62 Stat. 900; July 28, 1953, ch. 253, §2, 67 Stat. 226; Sept. 3, 1954, ch. 1263, §39(b), 68 Stat. 1240; July 9, 1956, ch. 517, §1(a), 70 Stat. 497; Pub. L. 85-755, §2, Aug. 25, 1958, 72 Stat. 848; Pub. L. 95-598, title II, §202, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 97-164, title I, §108, Apr. 2, 1982, 96 Stat. 28; Pub. L. 102-572, title I, §104, Oct. 29, 1992, 106 Stat. 4507.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§17, 22 (Mar. 3, 1911, ch. 231, §§13, 18, 36 Stat. 1089; Oct. 3, 1913, ch. 18, 38 Stat. 203; Sept. 14, 1922, ch. 306, §§3, 5, 42 Stat. 839; Mar. 2, 1929, ch. 488, §1, 45 Stat. 1475; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 754, §4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §1, 56 Stat. 1094).

Section consolidates all provisions of sections 17 and 22 of title 28, U.S.C., 1940 ed., relating to designation and assignment of circuit judges.

The revised section omits a reference to the Chief Justice contained in said section 22, since in exercising the powers under subsection (b), he acts as a circuit justice.

Paragraph (d) of said section 17, making the section applicable to the United States Court of Appeals for the District of Columbia, is omitted since such court is included in this revision because the District of Columbia is made a separate circuit. (See section 41 of this title.)

Provisions of said sections 17 and 22 authorizing the senior Associate Justice to act in the absence of the Chief Justice of the United States were omitted as surplusage in view of specific authority to so act in section 3 of this title.

The words in said section 17 “for such time as the business of such district court may require,” were

¹Section catchline amended by Pub. L. 85-755 without corresponding amendment of analysis.

omitted as inconsistent with the language of said section 22 of title 28, U.S.C., 1940 ed., which employed the words “the public interest requires” and “from time to time and until he shall otherwise direct.” The revised section and sections 294 and 296 of this title make clear the power to make designation and assignment without any limitation of time, to revoke such designation and assignment and to make, from time to time, new designations and assignments.

The term “chief judge” of the circuit was substituted for “senior circuit judge.” (See reviser’s note under section 136 of this title.)

References in said sections 17 and 22 to retired judges were omitted as covered by section 294 of this title.

Other provisions of said section 17 of title 28, U.S.C., 1940 ed., are incorporated in sections 292, 295 and 296 of this title.

Other provisions of said section 22 of title 28, U.S.C., 1940 ed., are incorporated in section 296 of this title.

Changes were made in phraseology and arrangement.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Chief Justice of the United States may designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit where the need arises.”

1982—Subsecs. (b), (c). Pub. L. 97-164 redesignated subsec. (c) as (b). Former subsec. (b), which authorized the Chief Justice of the United States to designate and temporarily assign any circuit judge to serve as a judge of the Court of Claims or the Court of Customs and Patent Appeals upon presentation to him of a certificate of necessity by the chief judge of the court in which the need arose, was struck out.

1978—Subsec. (c). Pub. L. 95-598 directed the amendment of subsec. (c) by inserting “or bankruptcy” after “to hold a district”, 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.

1958—Subsec. (a). Pub. L. 85-755 struck out provision for assignment of any judge of the Court of Claims to serve as circuit judge in any circuit. See section 293(a) of this title.

Subsec. (b). Pub. L. 85-755 redesignated subsec. (c) as (b) and incorporated in it provision for assignment of circuit judges to Court of Customs and Patent Appeals formerly contained in section 293 of this title. Former subsec. (b), which provided for assignment of judges of the Court of Customs and Patent Appeals to serve as judges of the Court of Appeals or the District Court for the District of Columbia, was struck out. See section 293(a) of this title.

Subsecs. (c), (d). Pub. L. 85-755 redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

1956—Subsec. (a). Act July 9, 1956, inserted “or any judge of the Court of Claims to serve as a circuit judge in any circuit”.

1954—Subsec. (c). Act Sept. 3, 1954, struck out “United States” from name of Court of Claims.

1953—Subsecs. (c), (d). Act July 28, 1953, added subsec. (c) and redesignated former subsec. (c) as (d).

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 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

JURISDICTION OF UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS

Pub. L. 85-755, §7, Aug. 25, 1958, 72 Stat. 850, provided that: “Nothing contained in this Act [amending this