

“Court of appeals” was substituted for “circuit court of appeals” to conform to section 43 of this title.

The provision that each clerk shall be removable by the court is new. Section 222 of title 28, U.S.C., 1940 ed., provided that deputies might be removed at the pleasure of the clerk, subject to the court’s approval, and there was no term of office specified for the clerk and no provision for his removal.

The words “and other necessary employees” were added in subsection (b) to supply an omission of existing law and to give statutory authority for the appointment of necessary employees for which compensation is annually appropriated.

Changes were made in phraseology.

§ 712. Law clerks and secretaries

Circuit judges may appoint necessary law clerks and secretaries. A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.

(June 25, 1948, ch. 646, 62 Stat. 920; Pub. L. 100-702, title X, § 1003(a)(3), Nov. 19, 1988, 102 Stat. 4665.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 222a (Mar. 3, 1911, ch. 231, § 118a, as added June 17, 1930, ch. 509, 46 Stat. 774).

Provision of section 222a of title 28, U.S.C., 1940 ed., relating to compensation of law clerks is incorporated in section 604 of this title. (See reviser’s note under such section.)

Words “with the approval of the Attorney General,” were omitted to confer on circuit judges the same authority given Supreme Court justices under section 675 of this title.

The provision for appointment of secretaries is new. Existing law fixes compensation of secretaries but makes no provision for their appointment. (See section 604 of this title and reviser’s note thereunder.)

Changes were made in phraseology.

AMENDMENTS

1988—Pub. L. 100-702 inserted at end “A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.”

§ 713. Librarians

(a) Each court of appeals may appoint a librarian who shall be subject to removal by the court.

(b) The librarian, with the approval of the court, may appoint necessary library assistants in such numbers as the Director of the Administrative Office of the United States Courts may approve. The librarian may remove such library assistants with the approval of the court.

(June 25, 1948, ch. 646, 62 Stat. 920; May 24, 1949, ch. 139, § 75, 63 Stat. 100; Pub. L. 97-164, title I, § 120(b)(1), Apr. 2, 1982, 96 Stat. 33.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 28, U.S.C., 1940 ed., § 547, and section 11-204 of District of Columbia Code, 1940 ed., (Mar. 3, 1891, ch. 517, § 9, 26 Stat. 829; Feb. 9, 1893, ch. 74, § 4, 27 Stat. 435; July 30, 1894, ch. 172, § 1, 28 Stat. 160; Mar. 3, 1901, ch. 854, § 224, 31 Stat. 1224; June 30, 1902, ch. 1329, 32 Stat. 528; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 23, 1912, ch. 350, 37 Stat. 412; Feb. 22, 1921, ch. 70, § 7, 41

Stat. 1144; Mar. 4, 1923, ch. 265, 42 Stat. 1488; May 21, 1928, ch. 659, 45 Stat. 645).

Section consolidates parts of section 11-204 of the District of Columbia Code, 1940 ed., and section 547 of title 28, U.S.C., 1940 ed.

The Judicial Code provided for the appointment of assistants and messengers in the Supreme Court, criers and “persons to wait upon juries” in the district courts, a messenger in the Court of Customs and Patent Appeals, and a bailiff and a chief messenger in the Court of Claims (see title 28, U.S.C., 1940 ed., §§ 9, 244, 305, 331) and also provided (see same title, § 547) that criers, bailiffs and messengers of the courts of appeals should be allowed the same compensation as allowed for similar services in the district courts, but did not provide for the appointment of said criers, bailiffs and messengers. This section authorizes such appointments.

The provisions of section 224 of title 28, U.S.C., 1940 ed., that the United States marshal shall provide for the expenses of criers, bailiffs and messengers for the circuit courts of appeals are superseded by sections 601-610 of this title vesting such functions in the Administrative Office of the United States Courts.

Provisions of section 11-204 of District of Columbia Code, 1940 ed., relating to appointment and compensation of clerk of the United States Court of Appeals for the District of Columbia are incorporated in sections 711 and 604 of this title, respectively. Other provisions of such section were retained in the District of Columbia Code. (See reviser’s note under section 604 of this title.)

Compensation of bailiffs is provided by section 755 of this title. Other provisions of section 547 of title 28, U.S.C., 1940 ed., relating to compensation of criers, clerks, and messengers are incorporated in section 604 of this title.

Marshal for the Court of Appeals for the District of Columbia was authorized by the District of Columbia Appropriation Act of June 29, 1937, 50 Stat. 378.

The duties of criers and bailiffs are made specific consistently with section 755 of this title, and existing administrative practice.

The removal provisions are added to make this section consistent with the same provisions in other sections relating to tenure of court officers.

Changes in phraseology and arrangement were made.

1949 ACT

This section corrects typographical errors in section 713 of title 28, U.S.C.

AMENDMENTS

1982—Pub. L. 97-164 substituted “Librarians” for “Criers, bailiffs, and messengers” in section catchline.

Subsec. (a). Pub. L. 97-164 struck out “and necessary library assistants” after “Each court of appeals may appoint a librarian”.

Subsec. (b). Pub. L. 97-164 substituted “The librarian, with the approval of the court, may appoint necessary library assistants in such numbers as the Director of the Administrative Office of the United States Courts may approve” for “Each court of appeals, except the Court of Appeals for the District of Columbia, may appoint a crier and such messengers as may be necessary, all of whom shall be subject to removal by the court” and “The librarian may remove such library assistants with the approval of the court” for “The crier shall also perform the duties of bailiff and messenger”.

Subsecs. (c), (d). Pub. L. 97-164 struck out subsecs. (c) and (d) which had provided, respectively, that the Court of Appeals for the District of Columbia could appoint a marshal, who would attend the court at its sessions, be custodian of its courthouse, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court might direct, that the court could also appoint necessary messengers who would be subject to removal by

the court, that the United States marshal of the district in which a court of appeals was sitting or in which a circuit judge was present in chambers, could, with the approval of the court or judge, employ necessary bailiffs, that the bailiffs would attend the court, preserve order, and perform such other necessary duties as the court, judge or marshal might direct, and that such bailiffs would receive the same compensation as bailiffs employed for the district courts. See section 714 of this title.

1949—Act May 24, 1949, inserted subsection designation (b) preceding second par. and renumbered former subsecs. (b) and (c) as (c) and (d), respectively.

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.

CONTINUATION OF SERVICE OF MARSHAL FOR COURT OF APPEALS FOR DISTRICT OF COLUMBIA; APPLICABILITY OF OTHER LAW TO COURT DURING SUCH INDIVIDUAL'S SERVICE

Pub. L. 98-620, title IV, § 415, Nov. 8, 1984, 98 Stat. 3364, provided that: "Any individual who, on the date of the enactment of the Federal Courts Improvement Act of 1982 [Pub. L. 97-164, enacted Apr. 2, 1982], was serving as marshal for the Court of Appeals for the District of Columbia under section 713(c) of title 28, United States Code, may, after the date of the enactment of this Act [Nov. 8, 1984], so serve under that section as in effect on the date of the enactment of the Federal Courts Improvement Act of 1982. While such individual so serves, the provisions of section 714(a) of title 28, United States Code, shall not apply to the Court of Appeals for the District of Columbia."

§ 714. Criers and messengers

(a) Each court of appeals may appoint a crier who shall be subject to removal by the court.

(b) The crier, with the approval of the court, may appoint necessary messengers in such number as the Director of the Administrative Office of the United States Courts may approve. The crier may remove such messengers with the approval of the court. The crier shall also perform the duties of bailiff and messenger.

(Added Pub. L. 97-164, title I, § 120(c)(1), Apr. 2, 1982, 96 Stat. 33.)

EFFECTIVE DATE

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

APPLICABILITY OF THIS SECTION TO COURT OF APPEALS FOR DISTRICT OF COLUMBIA DURING CONTINUED SERVICE OF MARSHAL FOR COURT IN OFFICE ON APR. 2, 1982

Subsec. (a) of this section not applicable to the Court of Appeals for the District of Columbia during the continued service as Marshal for such Court of any individual who was serving in such office under section 713(c) of this title as of Apr. 2, 1982, see section 415 of Pub. L. 98-620, set out as a note under section 713 of this title.

§ 715. Staff attorneys and technical assistants

(a) The chief judge of each court of appeals, with the approval of the court, may appoint a senior staff attorney, who shall be subject to removal by the chief judge with the approval of the court.

(b) The senior staff attorney, with the approval of the chief judge, may appoint necessary staff attorneys and secretarial and clerical em-

ployees in such numbers as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of staff attorneys exceed the number of positions expressly authorized in an annual appropriation Act. The senior staff attorney may remove such staff attorneys and secretarial and clerical employees with the approval of the chief judge.

(c) The chief judge of the Court of Appeals for the Federal Circuit, with the approval of the court, may appoint a senior technical assistant who shall be subject to removal by the chief judge with the approval of the court.

(d) The senior technical assistant, with the approval of the court, may appoint necessary technical assistants in such number as the Director of the Administrative Office of the United States Courts may approve, but in no event may the number of technical assistants in the Court of Appeals for the Federal Circuit exceed the number of circuit judges in regular active service within such circuit. The senior technical assistant may remove such technical assistants with the approval of the court.

(Added Pub. L. 97-164, title I, § 120(c)(1), Apr. 2, 1982, 96 Stat. 34.)

EFFECTIVE DATE

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

CHAPTER 49—DISTRICT COURTS

Sec.

751.	Clerks.
752.	Law clerks and secretaries.
753.	Reporters.
754.	Receivers of property in different districts.
755.	Criers and bailiffs.
756.	Power to appoint.

§ 751. Clerks

(a) Each district court may appoint a clerk who shall be subject to removal by the court.

(b) The clerk may appoint, with the approval of the court, necessary deputies, clerical assistants and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants and employees shall be subject to removal by the clerk with the approval of the court.

(c) The clerk of each district court shall reside in the district for which he is appointed, except that the clerk of the district court for the District of Columbia and the Southern District of New York may reside within twenty miles thereof. The district court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

(d) A clerk of a district court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

This subsection shall not apply to clerks or deputy clerks appointed as United States magistrate judges pursuant to section 631 of this title.