

the jury selection process shall not be disclosed, except pursuant to the district court plan or as may be necessary in the preparation or presentation of a motion under subsection (a), (b), or (c) of this section, until after the master jury wheel has been emptied and refilled pursuant to section 1863(b)(4) of this title and all persons selected to serve as jurors before the master wheel was emptied have completed such service. The parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and pendency of such a motion. Any person who discloses the contents of any record or paper in violation of this subsection may be fined not more than \$1,000 or imprisoned not more than one year, or both.

(June 25, 1948, ch. 646, 62 Stat. 953; Pub. L. 85-259, Sept. 2, 1957, 71 Stat. 583; Pub. L. 90-274, §101, Mar. 27, 1968, 82 Stat. 59.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §416 (Mar. 3, 1911, ch. 231, §279, 36 Stat. 1165; Jan. 31, 1929, ch. 126, 45 Stat. 1145).

Provisions for service by a disinterested person when marshal or his deputy is disqualified is incorporated in section 1868 of this title.

Provision for payment and reimbursement of postage and registry fee were omitted as covered by section 560 of this title.

Word "summons" was substituted for "writ of venire facias" in harmony with the Federal Rules of Civil Procedure which abolished unnecessary forms. See Rule 81(b) thereof, and Rule 12 of the Federal Rules of Criminal Procedure.

Provision of section 416 of title 28, U.S.C., 1940 ed., that the receipt of the person so addressed by registered mail should be regarded as personal service, was omitted. Such omission is consistent with Rule 5(b) of the Federal Rules of Civil Procedure providing that service by mail is complete upon mailing.

Provision for attachment to the return of the addressee's receipt for the summons, was inserted to cover its disposition.

Provision that no mileage shall be allowed for service by mail was omitted as unnecessary.

Changes were made in phraseology.

#### AMENDMENTS

1968—Pub. L. 90-274 substituted provisions by which a defendant may assert noncompliance with the selection procedures of the jury for provisions covering the issuance of summonses for jurors and service thereof upon jurors.

1957—Pub. L. 85-259 inserted "or certified" in second and third sentences.

#### 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.

#### § 1868. Maintenance and inspection of records

After the master jury wheel is emptied and refilled pursuant to section 1863(b)(4) of this title, and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, all records and papers compiled and maintained by the jury commission or clerk before the master wheel was emptied shall be preserved in the custody of the clerk for four

years or for such longer period as may be ordered by a court, and shall be available for public inspection for the purpose of determining the validity of the selection of any jury.

(June 25, 1948, ch. 646, 62 Stat. 953; Pub. L. 90-274, §101, Mar. 27, 1968, 82 Stat. 60.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§416, 417 (Mar. 3, 1911, ch. 231, §§279, 280, 36 Stat. 1165, Jan. 31, 1929, ch. 126, 45 Stat. 1145).

Section consolidates parts of sections 416, 417 of title 28, U.S.C., 1940 ed., with necessary changes in phraseology.

The remaining portion of section 416 of title 28, U.S.C., 1940 ed., constitutes section 1867 of this title.

The remainder of section 417 of title 28, U.S.C., 1940 ed., is incorporated in section 1866 of this title.

Words, "in the opinion of the court, disqualified" were substituted for "not an indifferent person, or is interested in the event of the cause".

#### AMENDMENTS

1968—Pub. L. 90-274 substituted provisions for the maintenance and inspection of records in the hands of the commission or clerk before the master wheel was emptied for provisions covering the disqualification of the United States marshal or his deputy and the appointment of a disinterested person by the court.

#### 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.

#### § 1869. Definitions

For purposes of this chapter—

(a) "clerk" and "clerk of the court" shall mean the clerk of the district court of the United States, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter;

(b) "chief judge" shall mean the chief judge of any district court of the United States;

(c) "voter registration lists" shall mean the official records maintained by State or local election officials of persons registered to vote in either the most recent State or the most recent Federal general election, or, in the case of a State or political subdivision thereof that does not require registration as a prerequisite to voting, other official lists of persons qualified to vote in such election. The term shall also include the list of eligible voters maintained by any Federal examiner pursuant to the Voting Rights Act of 1965 where the names on such list have not been included on the official registration lists or other official lists maintained by the appropriate State or local officials. With respect to the districts of Guam and the Virgin Islands, "voter registration lists" shall mean the official records maintained by territorial election officials of persons registered to vote in the most recent territorial general election;

(d) "lists of actual voters" shall mean the official lists of persons actually voting in either the most recent State or the most recent Federal general election;

(e) "division" shall mean: (1) one or more statutory divisions of a judicial district; or (2)

in statutory divisions that contain more than one place of holding court, or in judicial districts where there are no statutory divisions, such counties, parishes, or similar political subdivisions surrounding the places where court is held as the district court plan shall determine: *Provided*, That each county, parish, or similar political subdivision shall be included in some such division;

(f) “district court of the United States”, “district court”, and “court” shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title;

(g) “jury wheel” shall include any device or system similar in purpose or function, such as a properly programmed electronic data processing system or device;

(h) “juror qualification form” shall mean a form prescribed by the Administrative Office of the United States Courts and approved by the Judicial Conference of the United States, which shall elicit the name, address, age, race, occupation, education, length of residence within the judicial district, distance from residence to place of holding court, prior jury service, and citizenship of a potential juror, and whether he should be excused or exempted from jury service, has any physical or mental infirmity impairing his capacity to serve as juror, is able to read, write, speak, and understand the English language, has pending against him any charge for the commission of a State or Federal criminal offense punishable by imprisonment for more than one year, or has been convicted in any State or Federal court of record of a crime punishable by imprisonment for more than one year and has not had his civil rights restored. The form shall request, but not require, any other information not inconsistent with the provisions of this title and required by the district court plan in the interests of the sound administration of justice. The form shall also elicit the sworn statement that his responses are true to the best of his knowledge. Notarization shall not be required. The form shall contain words clearly informing the person that the furnishing of any information with respect to his religion, national origin, or economic status is not a prerequisite to his qualification for jury service, that such information need not be furnished if the person finds it objectionable to do so, and that information concerning race is required solely to enforce nondiscrimination in jury selection and has no bearing on an individual’s qualification for jury service.

(i) “public officer” shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office;

(j) “undue hardship or extreme inconvenience”, as a basis for excuse from immediate jury service under section 1866(c)(1) of this chapter, shall mean great distance, either in miles or traveltime, from the place of holding court, grave illness in the family or any other emergency which outweighs in immediacy and urgency the obligation to serve as a juror

when summoned, or any other factor which the court determines to constitute an undue hardship or to create an extreme inconvenience to the juror; and in addition, in situations where it is anticipated that a trial or grand jury proceeding may require more than thirty days of service, the court may consider, as a further basis for temporary excuse, severe economic hardship to an employer which would result from the absence of a key employee during the period of such service; and

(k) “jury summons” shall mean a summons issued by a clerk of court, jury commission, or their duly designated deputies, containing either a preprinted or stamped seal of court, and containing the name of the issuing clerk imprinted in preprinted, type, or facsimile manner on the summons or the envelopes transmitting the summons.

(June 25, 1948, ch. 646, 62 Stat. 953; Pub. L. 88-139, §2, Oct. 16, 1963, 77 Stat. 248; Pub. L. 90-274, §101, Mar. 27, 1968, 82 Stat. 61; Pub. L. 91-358, title I, §172(b), July 29, 1970, 84 Stat. 590; Pub. L. 92-437, §1, Sept. 29, 1972, 86 Stat. 740; Pub. L. 95-572, §3(b), 4, Nov. 2, 1978, 92 Stat. 2453; Pub. L. 95-598, title II, §243, Nov. 6, 1978, 92 Stat. 2671; Pub. L. 99-650, §3, Nov. 14, 1986, 100 Stat. 3641; Pub. L. 100-702, title VIII, §§802(a), 804, Nov. 19, 1988, 102 Stat. 4657, 4658; Pub. L. 110-406, §5(c), Oct. 13, 2008, 122 Stat. 4292.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §423 (Mar. 3, 1911, ch. 231, §286, 36 Stat. 1166). Changes were made in phraseology.

#### REFERENCES IN TEXT

The Voting Rights Act of 1965, referred to in subsec. (c), is Pub. L. 89-110, Aug. 6, 1965, 79 Stat. 437, which was formerly classified generally to subchapters I-A (§1973 et seq.), I-B (§1973aa et seq.), and I-C (§1973bb et seq.) of chapter 20 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering in Title 52, Voting and Elections, and is now classified generally to chapters 103 (§10301 et seq.), 105 (§10501 et seq.), and 107 (§10701 et seq.) of Title 52. For complete classification of this Act to the Code, see 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.