

the Director establishes not to exceed the maximum per diem allowance fixed by section 5702(a) of title 5, or in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States, reimbursement for his actual and necessary expenses of subsistence not in excess of the maximum amount fixed by section 5702 of title 5" for "Each Justice or judge of the United States and each retired Justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official station, shall, upon his certificate, be paid by the Director of the Administrative Office of the United States Courts all necessary traveling expenses, and also a per diem allowance in lieu of actual expenses of subsistence (as defined in the Travel Expense Act of 1949, as amended, 63 Stat. 166; 5 U.S.C. 835) at the per diem rate provided for by the Travel Expense Act of 1949, as amended, or, in accordance with regulations prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States, reimbursement for his actual expenses of subsistence not in excess of the maximum amount fixed by the Travel Expense Act of 1949, as amended", and inserted "The Director of the Administrative Office of the United States Courts shall also pay each justice or judge of the United States, and each retired justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business under an assignment authorized under chapter 13 of this title which exceeds in duration a continuous period of thirty calendar days, all necessary transportation expenses and actual and necessary expenses of subsistence actually incurred, notwithstanding the provisions of section 5702 of title 5, in accordance with regulations which the Director shall prescribe with the approval of the Judicial Conference of the United States."

Subsec. (b). Pub. L. 97-164 designated existing undesignated second par. as subsec. (b), and in subsec. (b) as so designated, substituted "official duty station" for "official station", struck out references to the judges of the Court of Claims and the Court of Customs and Patent Appeals, and inserted reference to the judges of the United States Court of Appeals for the Federal Circuit.

Subsec. (c). Pub. L. 97-164 designated existing undesignated third par. as subsec. (c) and substituted "official duty station" for "official station".

Subsec. (d). Pub. L. 97-164 designated existing undesignated fourth par. as subsec. (d) and substituted "The official duty station of each district judge shall be that place where a district court holds regular sessions at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains his actual abode in which he customarily lives" for "The official station of each circuit and district judge, including each district judge in the Territories and possessions, shall be that place where a district court is regularly held and at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains an actual abode in which he customarily lives".

Subsecs. (e), (f). Pub. L. 97-164 added subsecs. (e) and (f).

Subsec. (g). Pub. L. 97-164 designated existing undesignated fifth par. as subsec. (g) and substituted "Each circuit or district judge whose official duty station is not fixed expressly by this section shall notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and official duty station upon his appointment and from time to time thereafter as his official duty station may change" for "Each circuit judge and each district judge whose official station is not fixed expressly in the second paragraph of this section shall upon his appointment and from time to time thereafter as his official station may change, notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and his official station".

1980—Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1978—Pub. L. 95-598 directed the amendment of section by inserting references to the United States Bankruptcy Court for the District of Columbia and bankruptcy judges, 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.

1959—Pub. L. 86-138 authorized payment to justices and judges of a per diem allowance or a maximum amount for actual expenses of subsistence in place of reasonable maintenance expenses actually incurred, not exceeding \$15 per day.

1953—Act Aug. 8, 1953, increased limit of reimbursable maintenance from \$10 to \$15 per day.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-234 effective (1) on effective date of regulations to be promulgated not later than 150 days after Jan. 2, 1986, or (2) 180 days after Jan. 2, 1986, whichever occurs first, see section 301(a) of Pub. L. 99-234, set out as a note under section 5701 of Title 5, Government Organization and Employees.

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.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

REPORT ON TRANSPORTATION NEEDS

Pub. L. 99-550, § 3, Oct. 27, 1986, 100 Stat. 3070, directed Director of Administrative Office of United States Courts, within one year after Oct. 27, 1986, to prepare, in consultation with Marshal of Supreme Court of United States, Clerk of United States Court of Military Appeals, and Court Administrator of United States Tax Court, and transmit to Congress, appropriate recommendations concerning transportation needs of judicial branch and of courts established pursuant to Article I of the Constitution.

PROMULGATION OF REGULATIONS BY DIRECTOR

Director to promulgate regulations effectuating increases in reimbursement for expenses, see section 6 of Pub. L. 87-139, Aug. 14, 1961, 75 Stat. 340, set out as a note under section 604 of this title.

§ 457. Records; obsolete papers

The records of district courts and of courts of appeals shall be kept at one or more of the places where court is held. Such places shall be designated by the respective courts except when otherwise directed by the judicial council of the circuit.

Papers of any court established by Act of Congress which have become obsolete and are no longer necessary or useful, may be disposed of with the approval of the court concerned in the manner provided by sections 366-380 of Title 44 and in accordance with the rules of the Judicial Conference of the United States.

(June 25, 1948, ch. 646, 62 Stat. 908; Pub. L. 95-598, title II, § 216, Nov. 6, 1978, 92 Stat. 2661.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 10, 523a, 523b, (Mar. 3, 1911, ch. 231, § 6, 36 Stat. 1088; June 3, 1930, ch. 396, §§ 1, 2, 46 Stat. 496).

Section consolidates and simplifies sections 10, 523a and 523b of title 28, U.S.C., 1940 ed., relating to filing district court records and destroying obsolete papers and bankruptcy proofs of claims.

The revised section enlarges scope of section 10 of title 28, U.S.C., 1940 ed., to include places of keeping records of courts of appeals which was not covered by existing law.

The provisions in section 10 of title 28, U.S.C., 1940 ed., that where court is held “at more than one place” and the place of keeping the records “is not specially provided by law, they shall be kept at either of the places” designated by the court, was changed to permit the judicial councils of the circuits to make the determination without requiring special enactment of Congress. See section 332 of this title as to purpose and duties of the judicial councils.

The provision of section 523a of title 28, U.S.C., 1940 ed., authorizing destruction of records by the Attorney General was rewritten in the second paragraph to give such authority, respecting court records, to the Director of the Administrative Office of the United States Courts. Such Director, under section 604 of this title, now exercises administrative authority over clerks and commissioners.

A similar provision with respect to records of United States attorneys and marshals was omitted as superseded by sections 366 and 380 of title 44, U.S.C., 1940 ed., Public Printing and Documents, which prescribe the exclusive method for disposition of such papers.

Substantial changes were made in phraseology and arrangement.

Editorial Notes

REFERENCES IN TEXT

Sections 366–380 of Title 44, referred to in text, were repealed and the provisions thereof reenacted as chapter 33 (§3301 et seq.) of Title 44, Public Printing and Documents, by Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1238.

AMENDMENTS

1978—Pub. L. 95–598 directed the amendment of section by inserting “of bankruptcy courts,” after “The record”, 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.

§ 458. Relative of justice or judge ineligible to appointment

(a)(1) No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court.

(2) With respect to the appointment of a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court), subsection (b) shall apply in lieu of this subsection.

(b)(1) In this subsection, the term—

(A) “same court” means—

(i) in the case of a district court, the court of a single judicial district; and

(ii) in the case of a court of appeals, the court of appeals of a single circuit; and

(B) “member”—

(i) means an active judge or a judge retired in senior status under section 371(b); and

(ii) shall not include a retired judge, except as described under clause (i).

(2) No person may be appointed to the position of judge of a court exercising judicial power

under article III of the United States Constitution (other than the Supreme Court) who is related by affinity or consanguinity within the degree of first cousin to any judge who is a member of the same court.

(June 25, 1948, ch. 646, 62 Stat. 908; Pub. L. 105–300, §1(a), Oct. 27, 1998, 112 Stat. 2836.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §126 (Mar. 3, 1887, ch. 373, §7, 24 Stat. 555; Aug. 13, 1888, ch. 866, §7, 25 Stat. 437; Mar. 3, 1911, ch. 231, §67, 36 Stat. 1105; Dec. 21, 1911, ch. 4, 37 Stat. 46).

A provision referring to circuit court employees as of December 21, 1911, was omitted as obsolete.

Changes in phraseology were made.

Editorial Notes

AMENDMENTS

1998—Pub. L. 105–300 designated existing provisions as subsec. (a)(1) and added subsecs. (a)(2) and (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–300, §1(b), Oct. 27, 1998, 112 Stat. 2837, provided that: “This Act [amending this section] shall take effect on the date of enactment of this Act [Oct. 27, 1998] and shall apply only to any individual whose nomination is submitted to the Senate on or after such date.”

§ 459. Administration of oaths and acknowledgments

Each justice or judge of the United States may administer oaths and affirmations and take acknowledgments.

(June 25, 1948, ch. 646, 62 Stat. 908.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§264, 385, section 1509 of title 19, U.S.C., 1940 ed., Customs Duties, and section 1114(a) of title 26, U.S.C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, §§158, 268, 36 Stat. 1139, 1163; June 17, 1930, ch. 497, title IV, §509, 46 Stat. 733; Feb. 10, 1939, ch. 2, §1114(a), 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, §504(a), (c), 56 Stat. 957; Feb. 25, 1944, ch. 63, title V, §503, 58 Stat. 72).

Section consolidates provisions of sections 264 and 385 of title 28, U.S.C., 1940 ed., section 1509 of title 19, U.S.C., 1940 ed., and section 1114(a) of title 26, U.S.C., 1940 ed., relating to administration of oaths and acknowledgments by judges and courts.

The provision of section 385 of title 28, U.S.C., 1940 ed., giving to “all courts of the United States” power to impose and administer all necessary oaths is the only part of such section in this title. The remainder is incorporated in section 401 of revised title 18, U.S.C. (H.R. 1600, 80th Cong.), Crimes and Criminal Procedure.

Section 264 of title 28, U.S.C., 1940 ed., related only to the Court of Claims and provision of such section relating to clerks and deputies is incorporated in section 953 of this title.

Section 1509 of title 19, U.S.C., 1940 ed., related only to the Customs Court.

Section 1114(a) of title 26, U.S.C., 1940 ed., related only to The Tax Court. That portion of such section authorizing certain employees of The Tax Court to administer oaths and acknowledgments is incorporated in section 953 of this title. For distribution of other provisions thereof, see Distribution Table.

The revised section clarifies what was apparently a statutory omission in that no provision was made with reference to the Court of Customs and Patent Appeals,