

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A similar provision with respect to records of United States attorneys and marshals was omitted as superseded by sections 366 and 380 of title 44, U.S.C., 1940 ed., Public Printing and Documents, which prescribe the exclusive method for disposition of such papers.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Sections 366-380 of Title 44, referred to in text, were repealed and the provisions thereof reenacted as chapter 33 (§3301 et seq.)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,

the judges of which now will have the same power respecting administering oaths as judges of other courts.

#### SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated, therefore, as finally enacted, section 1114(a) of Title 26, U.S.C., Internal Revenue Code, did not constitute part of the source of this section. However, no change in the text of this section was necessary. See 80th Congress Senate Report No. 1559.

### § 460. Application to other courts

(a) Sections 452 through 459 and section 462 of this chapter shall also apply to the United States Court of Federal Claims, to each court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, and to the judges thereof.

(b) The official duty station of each judge referred to in subsection (a) which is not otherwise established by law shall be that place where the 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.

(June 25, 1948, ch. 646, 62 Stat. 908; Oct. 31, 1951, ch. 655, §43(a), 65 Stat. 725; Pub. L. 85-508, §12(e), July 7, 1958, 72 Stat. 348; Pub. L. 95-598, title II, §217(a), Nov. 6, 1978, 92 Stat. 2661; Pub. L. 97-164, title I, §115(b)(1), Apr. 2, 1982, 96 Stat. 31; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

#### HISTORICAL AND REVISION NOTES

This section was included to make clear that the provisions of this chapter are equally applicable in Alaska, the Canal Zone and the Virgin Islands in view of definitive section 451 of this title.

#### Editorial Notes

##### AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court”.

1982—Pub. L. 97-164 substituted “Application to other courts” for “Application to Canal Zone, Guam and Virgin Islands” in section catchline, designated existing provisions as subsec. (a), substituted “Sections 452 through 459 and section 462 of this chapter shall also apply to the United States Claims Court, to each court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States, and to the judges thereof” for “Sections 452-459 of this chapter shall also apply to the United States District Court for the District of the Canal Zone, the District Court of Guam and the District Court of the Virgin Islands and the judges thereof”, and added subsec. (b).

1978—Pub. L. 95-598 struck out “Alaska,” after “Application to” in section catchline.

1958—Pub. L. 85-508 struck out provisions which made sections 452 to 459 applicable to the District Court for the Territory of Alaska. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1951—Act Oct. 31, 1951, inserted “, Guam” in section catchline, and inserted reference to the District Court of Guam in text.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

##### 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 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

##### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-508 effective Jan. 3, 1959, upon admission of Alaska into the Union pursuant to Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, see notes set out under section 81A of this title and preceding section 21 of Title 48, Territories and Insular Possessions.

### § 461. Adjustments in certain salaries

(a)(1) Subject to paragraph (2), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of title 5 in the rates of pay under the General Schedule (except as provided in subsection (b)), each salary rate which is subject to adjustment under this section shall be adjusted by an amount, rounded to the nearest multiple of \$100 (or if midway between multiples of \$100, to the next higher multiple of \$100) equal to the percentage of such salary rate which corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.

(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.

(b) Subsection (a) shall not apply to the extent it would reduce the salary of any individual whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office.

(Added Pub. L. 94-82, title II, §205(a)(1), Aug. 9, 1975, 89 Stat. 422; amended Pub. L. 101-194, title VII, §704(a)(2)(A), Nov. 30, 1989, 103 Stat. 1769; Pub. L. 101-509, title V, §529 [title I, §101(b)(4)(J)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 103-356, title I, §101(4), Oct. 13, 1994, 108 Stat. 3411.)

#### Editorial Notes

##### REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5, Government Organization and Employees.